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16 UNITED STATES DISTRICT COURT
17 SOUTHERN DISTRICT OF CALIFORNIA

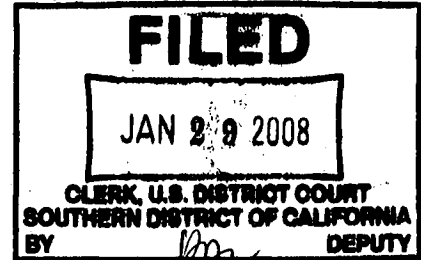
18 BMW of North America, LLC and
19 Bayerische Motoren Werke AG,

20 Plaintiffs,

21 v.

22 Eurotech Wheels, LLC, Eurotech Rims, LLC,
23 Ryan Moalemi and Joshua Moalemi,

24 Defendants.



'08 CV 0171 JM WMc

Case No:

COMPLAINT FOR
TRADEMARK AND DESIGN
PATENT INFRINGEMENT,
CYBERSQUATTING, AND
UNFAIR COMPETITION

25 Plaintiffs BMW of North America, LLC and Bayerische Motoren Werke AG (collectively
26 "BMW") seek injunctive and monetary relief from Defendants Eurotech Wheels, LLC, Eurotech Rims,
27 LLC, Ryan Moalemi and Joshua Moalemi (collectively, "Eurotech") for trademark and design patent
28 infringement, cybersquatting and unfair competition. As alleged more fully below, Defendants have
violated and continue to violate the Trademark Act of 1946 as amended, 15 U.S.C. §§ 1051 *et seq.* (the
"Lanham Act"), and California law through their unauthorized use of BMW's "Roundel" logo, M

1 Stripes logo and "BMW" word mark in connection with the sale of wheel rims that are not made or
2 authorized by BMW; and their unauthorized use of the "BMW" word trademark in the domain name
3 www.eurotechbmw.com. Defendants have also violated and continue to violate the Patent Act, 35
4 U.S.C. § 271, through their sale of wheel rims that infringe Plaintiffs' design patents.

5 PARTIES

6 1. Plaintiff BMW of North America, LLC ("BMW NA") is a Delaware limited liability
7 company with its principal place of business at 300 Chestnut Ridge Road, Woodcliff Lake, New Jersey
8 07677. BMW NA is a wholly owned subsidiary of BMW (US) Holding Corporation, a Delaware
9 corporation, which is a wholly owned subsidiary of Bayerische Motoren Werke AG. BMW NA is the
10 exclusive authorized distributor of "BMW" automotive and related products in the United States.

11 2. Plaintiff Bayerische Motoren Werke AG ("BMW AG") is a corporation organized
12 under the laws of the Federal Republic of Germany with its principal place of business at 80788
13 Munich, Germany. BMW AG manufactures motor vehicles, parts and other products for sale in
14 Germany and for export and sale throughout the world.

15 3. Upon information and belief, Defendant Eurotech Wheels, LLC is a California limited
16 liability company with its principal place of business at 6350 Nancy Ridge Drive # 104, San Diego,
17 CA 92121.

18 4. Upon information and belief, Defendant Eurotech Rims, LLC is a California limited
19 liability company with its principal place of business at 8730 Costa Verde Boulevard, Suite 2410, San
20 Diego, CA 92122. Upon information and belief, Eurotech Rims, LLC is a related company of
21 Eurotech Wheels, LLC.

22 5. Upon information and belief, Ryan Moalemi is owner and Chief Executive Officer of
23 Eurotech Wheels, LLC and has personally directed the activities alleged herein.

24 6. Upon information and belief, Joshua Moalemi is General Manager of Eurotech Wheels,
25 LLC and has personally directed the activities alleged herein.

26 JURISDICTION AND VENUE

27 7. This is an action arising under the patent and trademark laws of the United States,
28 specifically Titles 35 and 15 of the United States Code, 35 U.S.C. § 271 and 15 U.S.C. § 1051 *et seq.*

1 8. This Court has personal jurisdiction over Defendants because they reside in and conduct
2 business in California.

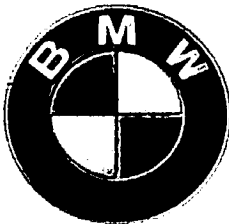
3 9. This Court has jurisdiction over the subject matter of this action under 15 U.S.C. § 1121
4 and 28 U.S.C. §§ 1331 and 1338(a) and 1338(b), and has supplemental jurisdiction under 28 U.S.C. §
5 1367(a) over BMW's claims under California law.

6 10. Venue is proper in this District under 28 U.S.C. § 1391(b), as Defendants have their
7 principal place of business in this District and, upon information and belief, a substantial part of the
8 events or omissions giving rise to the claims herein occurred and are occurring in this District.

9
10 **BMW'S DESIGN PATENTS AND TRADEMARKS**

11 11. BMW AG is the owner of various valid and lawfully issued United States Design
12 Patents, including patents for designs of the Front Face of a Vehicle Wheel (U.S. Design Patent Nos.
13 515,491; 514,999; 504,382; 493,404; and 470,093) (collectively, the "BMW design patents"). *See*
14 Exhs. 1(A); 2(A); 3(A); 4(A); and 5(A). BMW NA is the exclusive licensee of said patents in the
15 United States.

16 12. BMW is in the business of designing, manufacturing, and distributing motor vehicles,
17 wheel rims, and a variety of other products under various trademarks, including the word mark
18 "BMW" and the Roundel logo and M Stripes logo shown below:









13. BMW NA, through itself and its predecessors-in-interest, has been the exclusive licensee and authorized user of the Roundel logo and "BMW" word mark in the United States continuously since at least as early as 1949 in connection with the sale and service of motor vehicles and wheel rims.

14. BMW NA, through itself and its predecessors-in-interest, has been the exclusive licensee and authorized user of the M Stripes logo in the United States continuously since at least as early as 1985 in connection with the sale and service of motor vehicles.

15. Since long prior to the acts of the Defendants complained of herein, BMW has also used the Roundel logo, M Stripes logo and "BMW" word mark in connection with its business of manufacturing, and distributing motor vehicles, wheel rims, and a variety of other products in the State of California.

16. BMW AG is the owner of the following U.S. Registrations for its Roundel logo, M Stripes logo and "BMW" word mark:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Class:</u> <u>Services/Goods</u>
	613,465	October 4, 1955	Automobiles, motorcycles and parts thereof
	1,170,556	September 22, 1981	Motor vehicle repair and maintenance services and dealership services
	1,450,212	August 4, 1987	Automobiles, motorcycles, parts thereof, including wheels, wheel rims, and watches, clocks and various other goods and services

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Class:</u> <u>Services/Goods</u>
	2,752,258	August 19, 2003	Cleaning preparations for use in the automotive field, engine oil and various other goods
"BMW"	611,710	September 6, 1955	Automobiles and motorcycles
"BMW"	1,164,922	August 11, 1981	Motor vehicle repair and maintenance services and dealership services
"BMW"	1,627,241	September 18, 1990	Clothing
"BMW"	2,816,178	February 24, 2004	Antifreeze, automobile paint, engine oils, vehicle parts and various other goods
	1,438,545	August 5, 1987	Automobiles
	2,683,597	November 12, 2002	License plate frames, gear shift knobs, floor mats and various other goods

These registrations were duly and legally issued, and are valid and subsisting. Registration Nos. 613,465; 1,170,556; 1,450,212; 611,710; 1,164,922; 1,627,241; 1,438,545; and 2,683,597 are incontestable pursuant to 15 U.S.C. § 1065.

17. BMW NA distributes its vehicles, parts and accessories and provides maintenance services for its customers through nationwide networks of authorized dealers and service providers. BMW NA authorizes its dealerships to use the Roundel logo, M Stripes logo and "BMW" word mark in connection with the sale and/or service of BMW products.

18. To create and maintain goodwill among its customers, BMW has taken substantial steps to assure that all authorized BMW dealers and service providers using its Roundel logo, M Stripes logo and "BMW" word mark are of the highest quality.

1 19. Since January of 1996, BMW has used the "BMW" word mark within various domain
2 names through which customers and potential customers may access its websites. Through these
3 websites, BMW provides a wide variety of information to its customers and potential customers and
4 markets a variety of products and services. These sites are accessed through BMW's primary
5 bmw.com domain name, in addition to other domain names containing the "BMW" word mark such as
6 bmw-service.com, bmwusa.com, centralcarolinabmw.com, and bmwmotorcycles.com. As a result,
7 consumers have come to associate BMW-composite domain names exclusively with BMW.

8 20. BMW has expended millions of dollars in advertising efforts across the country in
9 connection with its Roundel logo, M Stripes logo and "BMW" word mark. As a result of BMW's long
10 use and promotion of these marks, BMW has established the Roundel logo, M Stripes logo and
11 "BMW" word mark as famous and/or well-known and distinctive marks among American purchasers
12 of motor vehicles, wheel rims, parts and accessories, as well as among general members of the
13 American public.

14 **DEFENDANTS' WRONGFUL ACTIVITIES**

15 **Trademark Infringement**

16 21. Defendants are manufacturing, offering for sale and selling wheel rims bearing BMW's
17 Roundel and M Stripes logo even though Defendants' wheels are not made or authorized by BMW.

18 22. Defendants are calling their wheels "BMW" wheels, and by other BMW trademarks,
19 even though Defendants' wheels are not made or authorized by BMW. For example, Defendants are
20 purporting to offer BMW wheels rather than simply Eurotech wheels that fit certain BMWs. *See*
21 Exhibit 1.

22 23. Defendants have registered and used the domain name www.eurotechbmw.com
23 without authorization from BMW. This domain is still owned by Defendants and, upon information
24 and belief, Defendants have used the website at www.eurotechbmw.com to sell "BMW" wheel rims
25 that are not made or authorized by BMW.

26 24. Defendants' unauthorized use of BMW's trademarks in the manner described above:
27
28

- 1 (a) is likely to cause confusion, to cause mistake, and/or to deceive customers and
2 potential customers of the parties, as to the origin, sponsorship, or approval of
3 Defendants' products and services, or as to some affiliation, connection, or
4 association of Defendants with BMW;
- 5 (b) enables Defendants to trade on and receive the benefit of goodwill BMW built
6 up at great labor and expense over many years, and to gain acceptance for
7 Defendants' products and services not solely on their own merits, but on the
8 reputation and goodwill of BMW, its trademarks, and its products and services;
- 9 (c) unjustly enriches Defendants; and
- 10 (d) unlawfully removes from BMW the ability to control the nature and quality of
11 products and services provided under BMW's trademarks and places the
12 goodwill and valuable reputation of BMW in the hands of Defendants, over
13 whom BMW has no control.

14 **Design Patent Infringement**

15 25. Defendants are infringing BMW U.S. Design Patent No. 515,491 ("the '491 patent") by
16 offering to sell and selling wheel rims that are covered by the '491 patent. A copy of BMW's U.S.
17 Design Patent No. 515,491 and a printout from Eurotech's online store showing this wheel rim style
18 are attached hereto as Exhibit 2(A) and (B), respectively.

19 26. Defendants are infringing BMW U.S. Design Patent No. 514,999 ("the '999 patent") by
20 offering to sell and selling wheel rims that are covered by the '999 patent. A copy of BMW's U.S.
21 Design Patent No. 514,999 and a printout from Eurotech's online store showing this wheel rim style
22 are attached hereto as Exhibit 3(A) and (B), respectively.

23 27. Defendants are infringing BMW U.S. Design Patent No. 504,382 ("the '382 patent") by
24 offering to sell and selling wheel rims that are covered by the '382 patent. A copy of BMW's U.S.
25 Design Patent No. 504,382 and a printout from Eurotech's online store showing this wheel rim style
26 are attached hereto as Exhibit 4(A) and (B), respectively.

28. Defendants are infringing BMW U.S. Design Patent No. 493,404 ("the '404 patent") by offering to sell and selling wheel rims that are covered by the '404 patent. A copy of BMW's U.S. Design Patent No. 493,404 and a printout from Eurotech's online store showing this wheel rim style are attached hereto as Exhibit 5(A) and (B), respectively.

29. Defendants are infringing BMW U.S. Design Patent No. 470,093 ("the '093 patent") by offering to sell and selling wheel rims that are covered by the '093 patent. A copy of BMW's U.S. Design Patent No. 470,093 and a printout from Eurotech's online store showing this wheel rim style are attached hereto as Exhibit 6(A) and (B), respectively.

30. BMW has been damaged and continues to be damaged by Defendants' activities in the manner described above.

31. Unless these acts of Defendants are restrained by this Court, they will continue to cause irreparable injury to BMW and to the public for which there is no adequate remedy at law.

COUNT I
FEDERAL TRADEMARK INFRINGEMENT
(Lanham Act § 32, 15 U.S.C. § 1114(1))

32. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 31 herein.

33. Defendants' use of BMW's Roundel logo, M Stripes logo and "BMW" word mark in connection with the sale of wheel rims that are not made or authorized by BMW and their unauthorized use of the "BMW" word mark in the domain name www.eurotechbmw.com is likely cause confusion, cause mistake, or deceive customers as to the source or sponsorship of Defendants' products and services.

34. The acts of Defendants complained of herein constitute use in commerce of reproductions, counterfeits, copies, or colorable imitations of BMW's federally registered Roundel logo, M Stripes logo and "BMW" word mark in connection with the sale, offering for sale, distribution and advertising of goods and services in violation of 15 U.S.C. § 1114(1).

1 35. Plaintiffs own a trademark registration for the Roundel logo covering "wheels;
2 [pneumatic tires]; and rims for vehicle wheels" in International Class 12 (Reg. No. number 1,450,212).

3 36. Defendants' use of other federally registered BMW marks, including but not limited to
4 X3, X5, M3, and 3 SERIES, as the names of Defendants' products falsely indicates that Defendants'
5 wheels are made, authorized, sponsored or approved by BMW, and is likely to continue to cause
6 confusion, mistake, and deception as to the source or sponsorship of Defendants and their products and
7 services.

8 37. Defendants' acts complained of herein have been deliberate, willful, and intentional,
9 with full knowledge and in conscious disregard of BMW's rights in its marks, and with intent to trade
10 off BMW's vast goodwill in its marks.

11 38. As a result of the foregoing alleged actions of Defendants, BMW has been injured and
12 damaged. Unless the foregoing alleged actions of Defendants are enjoined, BMW will continue to
13 suffer injury and damage.

14
15 **COUNT II**
16 **FEDERAL UNFAIR COMPETITION, FALSE DESIGNATION OF ORIGIN AND TRADE**
17 **NAME INFRINGEMENT**
18 **(Lanham Act § 43(a), 15 U.S.C. § 1125)**

19 39. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 38
20 herein.

21 40. Defendants' unauthorized use of BMW's Roundel logo, M Stripes logo and "BMW"
22 word mark in connection with the sale of wheel rims that are not made or authorized by BMW and
23 their unauthorized use of the "BMW" word mark in the domain name www.eurotechbmw.com falsely
24 indicates that Defendants and their products and services are connected with, sponsored by, affiliated
25 with, or related to BMW.

26 41. Defendants' unauthorized use of BMW's Roundel logo, M Stripes logo and "BMW"
27 word mark in connection with the sale of wheel rims that are not made or authorized by BMW and
28 their unauthorized use of the "BMW" word mark in the domain name www.eurotechbmw.com has

1 caused, and is likely to continue to cause confusion, mistake, and deception as to the source or
2 sponsorship of Defendants and their products and services.

3 42. Defendants' use of other federally registered BMW marks, including but not limited to
4 M3, X5, Z3, and 3 SERIES, as the names of Defendants' products falsely indicates that Defendants'
5 wheels are made, authorized, sponsored or approved by BMW, and is likely to continue to cause
6 confusion, mistake, and deception as to the source or sponsorship of Defendants and their products and
7 services.

8 43. The acts of Defendants complained of herein constitute unfair competition, false
9 designation of origin, and trade name infringement in violation of Section 43(a) of the Lanham Act, 15
10 U.S.C. § 1125(a).

11 44. Defendants' acts complained of herein have been deliberate, willful, and intentional,
12 with full knowledge and in conscious disregard of BMW's rights in its marks.

13 45. As a result of the foregoing alleged actions of Defendants, BMW has been injured and
14 damaged. Unless the foregoing alleged actions of Defendants are enjoined, BMW will continue to
15 suffer injury and damage.

16
17 **COUNT III**
18 **VIOLATION OF THE ANTICYBERSQUATTING CONSUMER PROTECTION ACT**
19 **(Lanham Act § 43(d), 15 U.S.C. § 1125(d))**

20 46. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 45
21 herein.

22 47. The domain name www.eurotechbmw.com registered by Defendants incorporates the
23 "BMW" mark.

24 48. The "BMW" mark was famous and distinctive at the time of the registration of
25 www.eurotechbmw.com.

26 49. Upon information and belief, Defendants' registration and use of the domain name has
27 been and is in bad faith, in that the registration and use occurred (i) with full knowledge and conscious
28

1 disregard of BMW's rights in the "BMW" mark and (ii) with an intent to trade off and profit from
2 BMW's vast goodwill in its name.

3 50. The acts of Defendants complained of herein constitute cybersquatting in violation of
4 Section 43(d) of the Lanham Act, 15 U.S.C. § 1125(d).

5 51. As a result of the foregoing alleged actions, BMW has been injured and damaged.
6 Unless the foregoing alleged actions of Defendants are enjoined, BMW will continue to suffer injury
7 and damage.

8
9 **COUNT IV**
10 **DESIGN PATENT INFRINGEMENT**
11 **U.S. DESIGN PATENT NO. 515,491**
12 **(35 U.S.C. §271)**

13 52. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 51
14 herein.

15 53. Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC are infringing U.S. Design
16 Patent No. 515,491 in violation of 35 U.S.C §271 by making, using, offering for sale and/or selling
17 products within the scope of the '491 patent in the United States.

18 54. Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's acts complained of
19 herein have been willful, deliberate and with conscious disregard of BMW's U.S. design patent rights.

20 55. As a result of Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's
21 infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and
22 belief, Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's infringement will persist unless
23 enjoined by this Court.

24 56. The acts complained of herein constitute design patent infringement in violation of 35
25 U.S.C. § 271.

COUNT V
DESIGN PATENT INFRINGEMENT
U.S. DESIGN PATENT NO. 514,999
(35 U.S.C. §271)

57. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 56 herein.

58. Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC are infringing U.S. Design Patent No. 514,999 in violation of 35 U.S.C §271 by making, using, offering for sale and/or selling products within the scope of the '999 patent in the United States.

59. Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's acts complained of herein have been willful, deliberate and with conscious disregard of BMW's U.S. design patent rights.

60. As a result of Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and belief, Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's infringement will persist unless enjoined by this Court.

61. The acts complained of herein constitute design patent infringement in violation of 35 U.S.C. § 271.

COUNT VI
DESIGN PATENT INFRINGEMENT
U.S. DESIGN PATENT NO. 504,382
(35 U.S.C. §271)

62. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 61 herein.

63. Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC are infringing U.S. Design Patent No. 504,382 in violation of 35 U.S.C §271 by making, using, offering for sale and/or selling products within the scope of the '382 patent in the United States.

1 64. Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's acts complained of
2 herein have been willful, deliberate and with conscious disregard of BMW's U.S. design patent rights.

3 65. As a result of Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's
4 infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and
5 belief, Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's infringement will persist unless
6 enjoined by this Court.

7 66. The acts complained of herein constitute design patent infringement in violation of 35
8 U.S.C. § 271.

9
10 **COUNT VII**
11 **DESIGN PATENT INFRINGEMENT**
12 **U.S. DESIGN PATENT NO. 493,404**
13 **(35 U.S.C. §271)**

14 67. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 66
15 herein.

16 68. Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC are infringing U.S. Design
17 Patent No. 493,404 in violation of 35 U.S.C §271 by making, using, offering for sale and/or selling
18 products within the scope of the '404 patent in the United States.

19 69. Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's acts complained of
20 herein have been willful, deliberate and with conscious disregard of BMW's U.S. design patent rights.

21 70. As a result of Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's
22 infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and
23 belief, Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's infringement will persist unless
24 enjoined by this Court.

25 71. The acts complained of herein constitute design patent infringement in violation of 35
26 U.S.C. § 271.

COUNT VIII

DESIGN PATENT INFRINGEMENT

U.S. DESIGN PATENT NO. 470,093

(35 U.S.C. §271)

72. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 71 herein.

73. Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC are infringing U.S. Design Patent No. 470,093 in violation of 35 U.S.C §271 by making, using, offering for sale and/or selling products within the scope of the '093 patent in the United States.

74. Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's acts complained of herein have been willful, deliberate and with conscious disregard of BMW's U.S. design patent rights.

75. As a result of Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and belief, Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC's infringement will persist unless enjoined by this Court.

76. The acts complained of herein constitute design patent infringement in violation of 35 U.S.C. § 271.

COUNT IX

TRADEMARK INFRINGEMENT

(Common Law of California)

77. BMW re-alleges and incorporates the allegations set forth in paragraphs 1 through 76 herein.

78. The acts of Defendants complained of herein constitute trademark infringement in violation of the common law of California.

79. Defendants' use of the infringing marks as described above has caused, is causing and, unless enjoined by this Court, will continue to cause confusion and mistake in the marketplace and

1 deception of the trade and public as to the relationship or affiliation of the parties and the source,
2 origin, or sponsorship of their respective products and/or services.

3 80. On information and belief, Defendants, with full knowledge of BMW's rights in its
4 Roundel logo, M Stripes logo and "BMW" word mark, and of the valuable goodwill associated
5 therewith, have committed the acts alleged herein willfully, with the intent to trade off, or in complete
6 disregard of, BMW's goodwill and the goodwill associated with BMW's Roundel logo, M Stripes logo
7 and "BMW" word mark.

8 81. As a result of the foregoing alleged actions, Defendants have been unjustly enriched
9 and BMW has been injured and damaged. Unless the foregoing alleged actions of Defendants are
10 enjoined, BMW will continue to suffer injury and damage.

11 82. Defendants' use of the infringing marks as described above has impaired, is impairing
12 and, unless enjoined by this Court, will continue to impair BMW's reputation under its trademarks and
13 has caused, is causing and, unless enjoined by this Court, will continue to cause injury and damage to
14 BMW for which BMW is entitled to relief under the common law.

15
16 **COUNT X**
17 **UNFAIR COMPETITION**
18 **(California Unfair Competition Statute,**
19 **Cal. Bus. & Prof. Code § 17200 et seq.)**

20 83. BMW re-alleges and incorporates the allegations set forth in paragraphs 1 through 82
21 herein.

22 84. The acts of Defendants complained of herein constitute unlawful and unfair competition
23 in violation of the California Unfair Competition Statute, Cal. Bus. & Prof. Code § 17200, as they are
24 likely to deceive and mislead the public.

25 85. As a result of the foregoing alleged actions of Defendants, Defendants have been
26 unjustly enriched and BMW has been injured and damaged. Unless the foregoing alleged actions of
27 Defendants are enjoined, BMW will continue to suffer injury and damage.
28

COUNT XI
UNFAIR COMPETITION
(Common Law of California)

86. BMW re-alleges and incorporates the allegations set forth in paragraphs 1 through 85 herein.

87. The acts of Defendants complained of herein constitute unfair competition in violation of the common law of California.

88. As a result of the foregoing alleged actions, Defendants have been unjustly enriched and BMW has been injured and damaged. Unless the foregoing alleged actions of Defendants are enjoined, BMW will continue to suffer injury and damage.

PRAYER FOR RELIEF

WHEREFORE, BMW prays that:

1. Defendants be adjudged liable as to the foregoing claims.
2. Defendants, their agents, servants, employees, and all others in active concert or participation with any of them, be permanently enjoined and restrained from:
 - (a) using BMW's Roundel logo, M Stripes logo, or "BMW" word mark in a trademark sense, or any other name or mark that is confusingly similar to these marks, in connection with the sale of wheel rims, including affixing BMW's Roundel logo or M Stripes logo to wheel rims that are not made or authorized by BMW;
 - (b) Using BMW's trademarks, rather than Defendants' trademark, as or in the names of their products;
 - (c) manufacturing, importing, marketing, advertising, offering to sell and/or selling wheel rims that infringe upon BMW's U.S. Design Patent Nos. 515,491; 514,999; 504,382; 493,404; and 470,093; and
 - (d) doing any other act or thing likely to confuse, mislead, or deceive others into believing that Defendants emanate from, or are connected with, sponsored or

1 approved by, BMW or that any of their products are otherwise authorized by
2 BMW.

3 3. Defendants, in accordance with Section 34(a) of the United States Trademark Act, 15
4 U.S.C. § 1116(a), be required to file with the Court, and serve upon Plaintiffs, within
5 thirty (30) days after the entry and service on Defendants of an injunction, a report in
6 writing and under oath, setting forth in detail the manner and form in which Defendants
7 have complied with the terms of such injunction.

8 4. Defendants be required to pay to BMW for their willful trademark infringement
9 and counterfeiting:

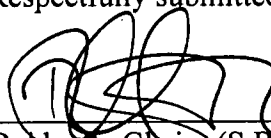
- 10 (a) in accordance with Section 35 of the United States Trademark Act, 15 U.S.C. §
11 1117(b) and (c), an award of Defendants' profits and BMW's actual damages,
12 the greater of which being trebled, or statutory damages up to \$1 million per
13 counterfeit mark per type of goods sold, offered for sale, or distributed by
14 Defendants, resulting from Defendants' intentional use of BMW's Roundel logo
15 on wheel rims that are not made or authorized by BMW;
- 16 (b) in accordance with Section 35(a) of the United States Trademark Act, 15 U.S.C.
17 § 1117(a) and (b), an award of treble Plaintiffs' actual damages (including lost
18 trademark royalties) plus Defendants' profits resulting from Defendants' sale of
19 wheel rims that are not made or authorized by BMW in connection with BMW's
20 M Stripes logo and "BMW" word mark;
- 21 (c) BMW's attorneys' fees and costs of this action;
- 22 (d) punitive damages for Defendants' acts of unfair competition and infringement;
23 and
- 24 (e) statutory damages of \$100,000.00 relating to Defendants' unlawful acts of
25 cybersquatting.

26 5. For their repeated, willful, and deliberate design patent infringement:
27
28

- (a) Defendants Eurotech Wheels, LLC and Eurotech Rims, LLC be held liable to the extent of their total profits from design patent infringement, but not less than \$250 per infringing act, pursuant to 35 U.S.C. § 289; and
- (b) the Court award BMW treble damages, pursuant to 35 U.S.C. § 284, and declare this case exceptional and award BMW its attorneys' fees pursuant to 35 U.S.C. § 285.

6. Defendants, in accordance with Section 43(d) of the United States Trademark Act, 15 U.S.C. § 1125(d), be required to forfeit or cancel the www.eurotechbmw.com domain name or transfer the same to BMW.
7. BMW recover such other relief as the Court may deem appropriate.

Respectfully submitted,



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Woodcliff Lake, NJ 07677
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Dated: January 28, 2008

Attorneys for Plaintiffs
BMW of North America, LLC
and Bayerische Motoren Werke AG



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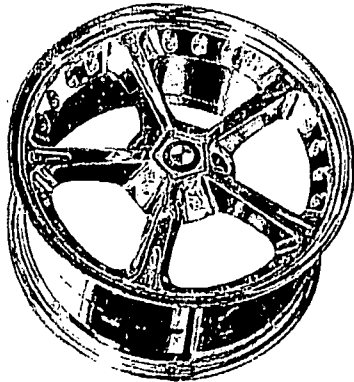
19 bmw 3 5 6 7 8 m z series wheels rims 325 330 525 540

L@K IN OUR EBAY STORE FOR DAILY BMW WHEEL SPECIALS

Item number: 350014311489

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Buy it now price: US \$795.00 Buy It Now

Get low monthly payments

Shipping costs: **US \$89.00**
UPS Ground
Service to United States

Ships to: Worldwide

Item location: San Diego, CA, United States

Quantity: 19 available

History: Purchases

You can also: Watch This Item

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Listing and payment details: Hide

Meet the seller

Seller: eurotechwheels (2081 ★)

Feedback: **99.4% Positive**

Member: since Nov-15-01 in United States

- See detailed feedback
- Ask seller a question
- Add to Favorite Sellers
- View seller's other items: Store | List
- Visit seller's Store: [EuroTech Luxury Wheels](#)

Buy safely

1. Check the seller's reputation

Score: 2081 | 99.4% Positive
See detailed feedback

2. Check how you're protected

PayPal This item is covered **up to \$2000** See [eligibility](#)

Returns: Seller accepts returns.
7 Days Merchandise Credit

Starting time: Jan-11-08 13:21:08 PST
Duration: 30-day listing

Payment methods: **PayPal** (preferred),
Money order/Cashiers
check,
Visa/MasterCard,
American Express,
Discover
See details

Description

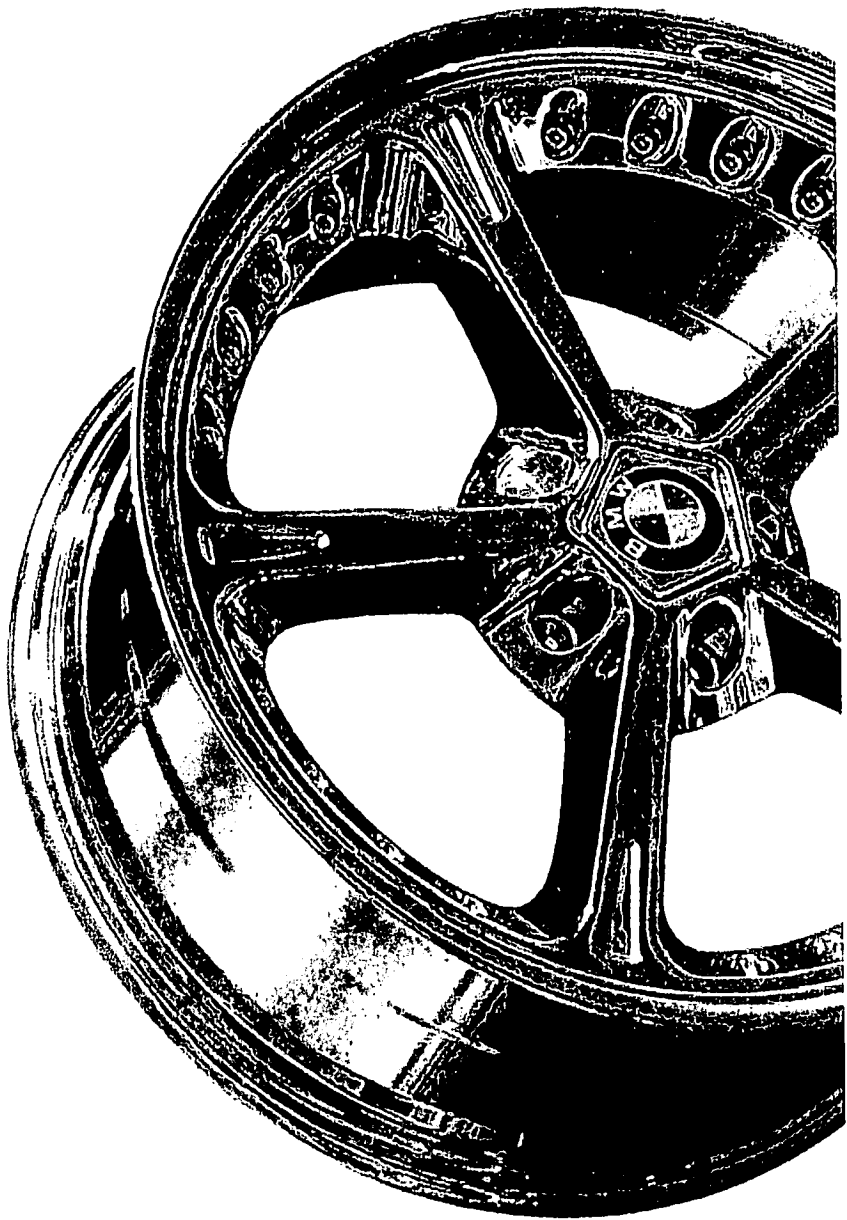
EuroTech Luxury Wheels

eurotech wheels

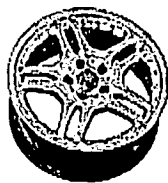
858.245.1802

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BMW Wheels | Mercedes Wheels

SET OF (4) BRAND NEW 19" BMW RIMS
STAGGERED 19*8 & 19*9.5



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17" Audi A4 A6 A8 S4 S6 RS4 RS6 quattro
wheels rims

[Buy It Now](#) US \$495.00

Time left: < 34 m



17 mercedes benz c cl clk e ml s slk amg
wheels rims

[Buy It Now](#) US \$459.00


Time left: < 34 m




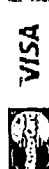


18 Bmw 5 6 7 8 series M5 525 530 540 740
745 850 wheels

[Buy It Now](#) US \$745.00

Time left: 2h 15m

 [Visit seller's Store](#)

Shipping, payment details, and return policy

Ships to Worldwide			
Shipping and Handling			
Country: <input type="text" value="United States"/>	Quantity: <input type="text" value="1"/>	Update	
Shipping and Handling	Each Additional Item	To	Service
US \$89.00	Free	United States	UPS Ground 1 to 6 business days*
*Sellers are not responsible for service transit time. This information is provided by the carrier and excludes weekends and holidays. Note that transit times may vary, particularly during peak periods.			
Shipping insurance Not offered			
Seller's payment instructions Thanks for your purchase. Please follow the links to checkout.			
Seller's return policy: Item must be returned within: 7 Days Refund will be given as: Merchandise Credit			
Payment methods accepted			
   			
<ul style="list-style-type: none"> • Money order/Cashiers check 			

- Visa/MasterCard, American Express, Discover

Ready to Buy?

Item title: 19 bmw 3 5 6 7 8 m z series wheels rims 325 330 525 540

Buy It Now

~~Buy It Now~~ price: US \$795.00

Your Quantity: x

Buy It Now

You will confirm in the next step.

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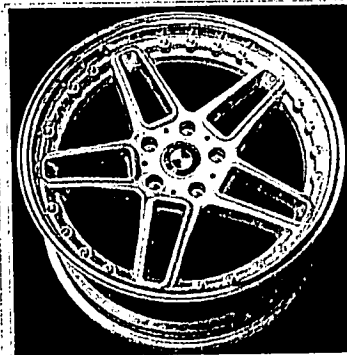
19 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims

---SEE OUR EBAY STORE - TONS OF 19" BMW WHEELS---

Item number: 350013394230

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[Buy It Now](#) price: **US \$589.00** [Buy It Now >](#)

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End time: **3 hours 50 mins** (Jan-11-08 11:09:17 PST)

Shipping costs:

US \$89.00

UPS Ground

Service to [United States](#)

Ships to:

Worldwide

Item location:

san diego, United States

Quantity:

10 available

History:

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Seller: [eurotechwheels \(2049 ★\)](#)

Feedback: **99.3% Positive**

Member: since Nov-15-01 in United States

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[EuroTech Luxury Wheels](#)

Buy safely

1. [Check the seller's reputation](#)
Score: 2049 | 99.3% Positive
[See detailed feedback](#)

2. [Check how you're protected](#)

PayPal This item is covered up to \$2,000 [See eligibility](#)

Returns: Seller accepts returns.
[7 Days Merchandise Credit](#)

[Description](#)

http://cgi.ebay.com/ebaymotors/19-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims_W0QQcmdZViewItemQQcategoryZ43959QQihZ0222QQite... 11.01.2008

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eBay Motors: 19 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims (item 350013394230 end time Jan-11-08 11:09:17 PST)

EuroTech Luxury Wheels

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Seite 5 von 10

eBay Motors: 19 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims (item 350013394230 end time Jan-11-08 11:09:17 PST)

SET OF FOUR BRAND NEW 19" BMW RIMS
POLISHED LIP-CENTER CAPS INCLUDED



EXHIBIT 1 PAGE 27

http://cgi.ebay.com/ebaymotors/19-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims_W00QcmdZViewItemQQcategoryZ43959QQihZ022QQite... 11.01.2008

eBay Motors: 19 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims (item 350013394230 end time Jan-11-08 11:09:17 PST)

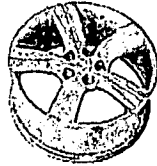
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17" Audi A4 A6 A8 S4 S6 RS4 RS6 quattro wheels rims

[Buy It Now](#) US \$495.00

Time left: < 50 m



18 Lexus is250 is350 gs300 400 gs430 sc is wheels rims

[Buy It Now](#) US \$495.00

Time left: 1h 49m



18 Bmw 5 6 7 8 series M5 525 530 540 740 745 850 wheels

[Buy It Now](#) US \$745.00

Time left: 2h 31m



18 8.5/9.5 Chrome Bmw 3 5 6 7 8 M Z Series Wheels Rims

[Buy It Now](#) US \$659.00

Time left: 2h 49m

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Shipping and handling

Ships to
Worldwide

Country: Quantity:

Shipping and Handling	Each Additional Item	To	Service
US \$89.00	+ \$89.00	United States	UPS Ground 1 to 5 business days*

*Sellers are not responsible for service transit time. This information is provided by the carrier and excludes weekends and holidays. Note that transit times may vary, particularly during peak periods.

Shipping insurance
Included (in the shipping and handling cost)

http://cgi.ebay.com/ebaymotors/19-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims_W0QQcmdZViewItemQQcategoryZ43959QQihZ022QQite... 11.01.2008

Seite 9 von 10

eBay Motors: 19 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims (item 350013394230 end time Jan-11-08 11:09:17 PST)

Sales tax

Seller charges sales tax for items shipped to: CA (7.750%).

Return policy

Item must be returned within:	7 Days
Refund will be given as:	Merchandise Credit

Payment details

Payment method



Personal check

Money order/Cashiers check

Visa/MasterCard, American Express, Discover

Preferred/Accepted

Seller Preferred

Accepted

Accepted

Accepted

Seller's payment instructions

Thanks for your purchase. Please follow links to checkout.

Take action on this item

Item title: 19 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims

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http://cgi.ebay.com/ebaymotors/19-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims_W0QQcmdZViewItemQQcategoryZ43959QQihZ022QQite... 11.01.2008

eBay Motors: 19 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims (item 350013394230 end time Jan-11-08 11:09:17 PST) Seite 10 von 10

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Your Quantity: x

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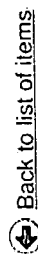
eBay Motors: 18 Bmw 3 M3 318 e90 320 323 325 328 330 335 wheels rims (item 350013389915 end time Jan-11-08 10:57:01 PST) Seite 1 von 9



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18 Bmw 3 M3 318 e90 320 323 325 328 330 335 wheels rims

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Item number: 350013389915

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[Watch this item](#) in My eBay

Meet the seller

Seller: [eurotechwheels \(2049 ★\)](#)

Feedback: **99.3% Positive**

Member: since Nov-15-01 in United States

See [detailed feedback](#)

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View seller's other items: [Store](#) | [List](#)

Visit seller's Store:

[EuroTech Luxury Wheels](#)

Buy safely

1. Check the seller's reputation

Score: 2049 | 99.3% Positive

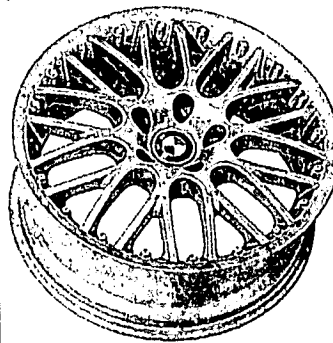
See [detailed feedback](#)

2. Check how you're protected

PayPal This item is covered **up to \$2,000** See [eligibility](#)

Returns: Seller accepts returns.

[7 Days Merchandise Credit](#)



[View larger picture](#)

[Buy it now](#) price: **US \$395.00** [Buy It Now](#) >

[Get low monthly payments](#)

End time: **3 hours 38 mins** (Jan-11-08 10:57:01 PST)

Shipping costs:

US \$89.00

UPS Ground

Service to [United States](#)

Ships to:

Worldwide

Item location:

san diego, United States

Quantity:

10 available

History:

[Purchases](#)

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Description

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eBay Motors: 18 Bmw 3 M3 318 e90 320 323 325 328 330 335 wheels rims (item 350013389915 end time Jan-11-08 10:57:01 PST)

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Seite 5 von 9

eBay Motors: 18 Bmw 3 M3 318 e90 320 323 325 328 330 335 wheels rims (item 350013389915 end time Jan-11-08 10:57:01 PST)

SET OF (4) BRAND NEW 18" BMW RIMS
CENTER CAPS INCLUDED

-----Each Bid Buys a Set of 4 Wheels/Caps-----

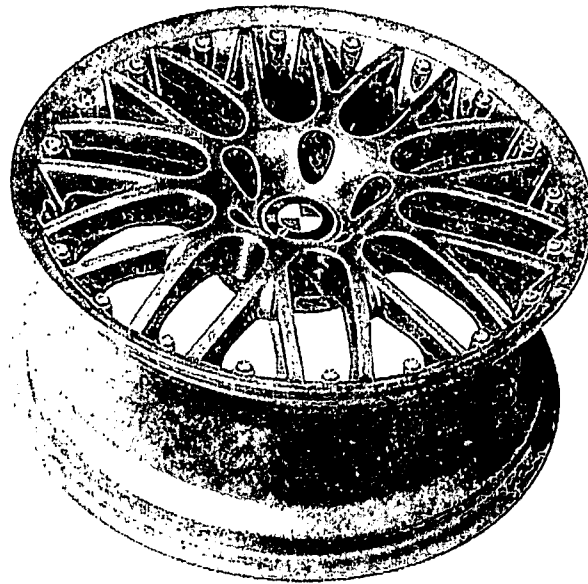


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Seite 6 von 9

eBay Motors: 18 Bmw 3 M3 318 e90 320 323 325 328 330 335 wheels rims (item 350013389915 end time Jan-11-08 10:57:01 PST)

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charneyadvisor

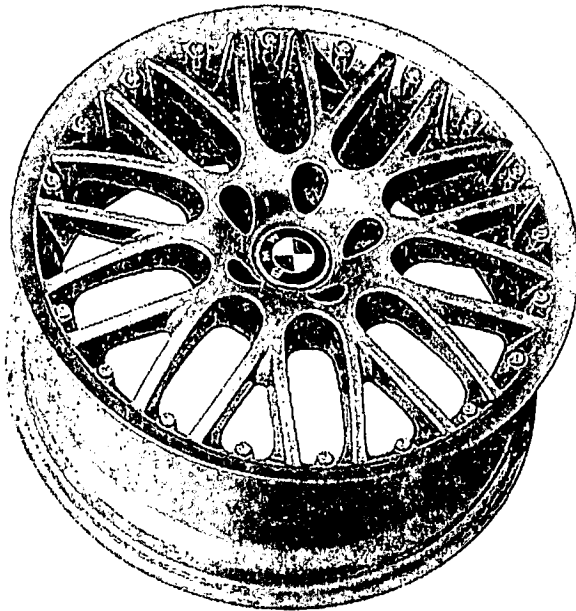


EXHIBIT 1 PAGE 24

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eBay Motors: 18 Bmw 3 M3 318 e90 320 323 325 328 330 335 wheels rims (item 350013389915 end time Jan-11-08 10:57:01 PST)

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RS6 quattro wheels rims

Buy it Now US \$495.00
Time left: < 51 m

19 Bmw 3 M3 318 e46 318 320
323 325 328 330 wheels rims

Buy it Now US \$795.00
Time left: 1h 50m

19 black mercedes c clk e ml r
s slk amg wheels rims

Buy it Now US \$695.00
Time left: 2h 50m

17 Bmw 5 6 7 8 series 525 530
540 545 745 m wheels rims

Buy it Now US \$675.00
Time left: 3h 20m

Visit seller's Store

Shipping and handling

Ships to
WorldwideCountry: Quantity:

Shipping and Handling	Each Additional Item	To	Service
US \$89.00	+ \$89.00	United States	UPS Ground 1 to 3 business days*

*Sellers are not responsible for service transit time. This information is provided by the carrier and excludes weekends and holidays. Note that transit times may vary, particularly during peak periods.

Shipping insurance
Included (in the shipping and handling cost)

Sales tax

...tp://cgi.ebay.com/ebaymotors/18-Bmw-3-M3-318-e90-320-323-325-328-330-335-wheels-rims_W0QQcmdZViewItemQQcategoryZ43958QQihZ0222Q... 11.01.2008

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eBay Motors: 18 Bmw 3 M3 318 e90 320 323 325 328 330 335 wheels rims (item 350013389915 end time Jan-11-08 10:57:01 PST)

Seller charges sales tax for items shipped to: CA (7.750%).

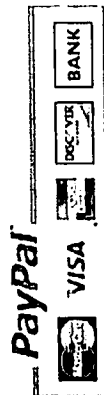
Return policy

Item must be returned within: 7 Days
Refund will be given as: Merchandise Credit

Payment details

Payment method

Preferred/Accepted



Seller Preferred

Personal check

Accepted

Money order/Cashiers check

Accepted

Visa/MasterCard, American Express, Discover

Accepted

Seller's payment instructions

Thanks for your purchase. Please follow links to checkout.

Take action on this item

Item title: 18 Bmw 3 M3 318 e90 320 323 325 328 330 335 wheels rims

Buy It Now

Buy It Now price: US \$395.00

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eBay Motors: 18 Bmw 3 M3 318 e90 320 323 325 328 330 335 wheels rims (item 350013389915 end time Jan-11-08 10:57:01 PST) Seite 9 von 9

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US00D515491S

(12) **United States Design Patent** (10) Patent No.: **US D515,491 S**
Elmitt (45) Date of Patent: **Feb. 21, 2006**

(54) **FRONT FACE OF A VEHICLE WHEEL**

(75) Inventor: **Karl John Elmitt, Eching (DE)**

(73) Assignee: **Bayerische Motoren Werke Aktiengesellschaft, Munich (DE)**

(**) Term: **14 Years**

(21) Appl. No.: **29/224,578**

(22) Filed: **Mar. 4, 2005**

(30) **Foreign Application Priority Data**

Sep. 7, 2004 (DE) 4 04 05 166

(51) LOC (8) Cl. 12-16

(52) U.S. Cl. D12/209

(58) Field of Classification Search D12/204-213;
 301/37.101, 64.101, 65
 See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

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 D421,417 S * 3/2000 Weidhase D12/209
 D432,973 S * 10/2000 Fitzgerald D12/209

D433,659 S * 11/2000 Frizzi D12/211
 D460,940 S * 7/2002 Chung D12/209
 D463,349 S * 9/2002 Vian D12/209
 D466,853 S * 12/2002 Malfirini D12/211
 D472,866 S * 4/2003 Pfeiffer et al. D12/211
 D486,770 S * 2/2004 Pollmann D12/209
 D489,309 S * 5/2004 Laengerer D12/211
 D500,277 S * 12/2004 Kataoka D12/209
 D503,669 S * 4/2005 Bhambra D12/211

* cited by examiner

Primary Examiner—Stacia Cadmus

(74) Attorney, Agent, or Firm—Crowell & Moring LLP

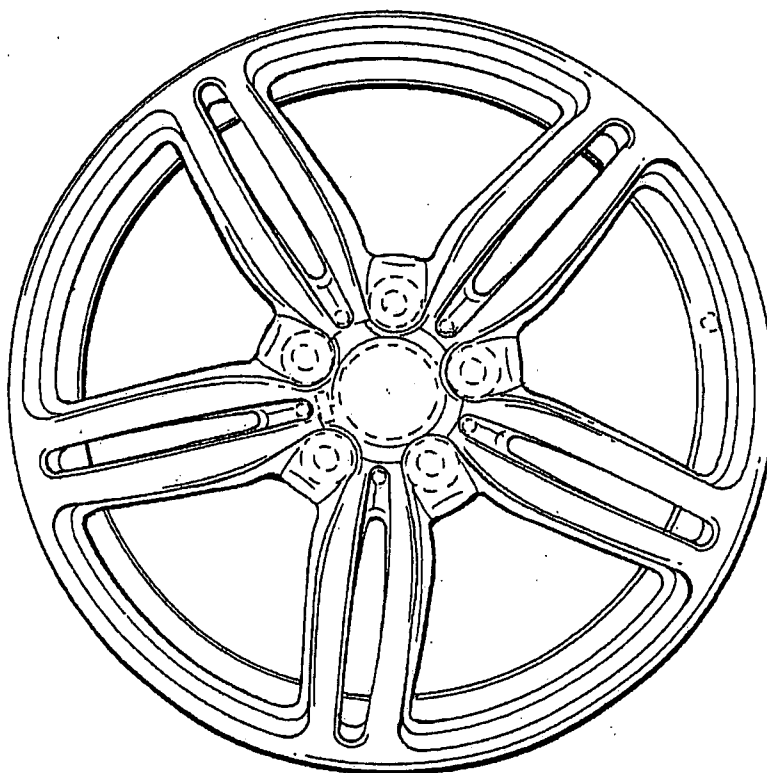
(57) **CLAIM**

The ornamental design for a front face of a vehicle wheel, as shown and described.

DESCRIPTION

FIG. 1 is a front view of a front face of a vehicle wheel according to my novel design; and, FIG. 2 is a perspective view of the front face of a vehicle wheel according to my novel design. The broken lines are for illustrative purposes only and form no part of the claimed design.

1 Claim, 1 Drawing Sheet



U.S. Patent

Feb. 21, 2006

US D515,491 S

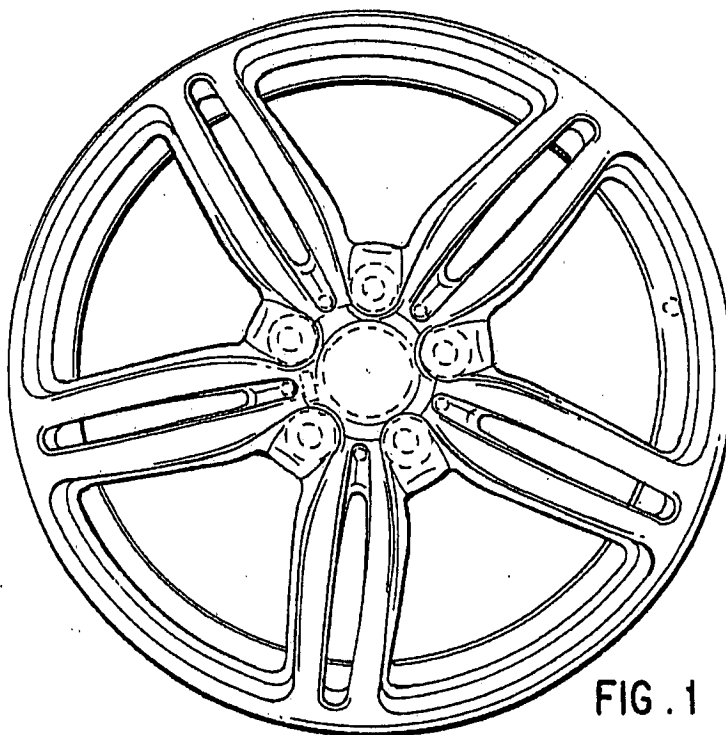


FIG. 1

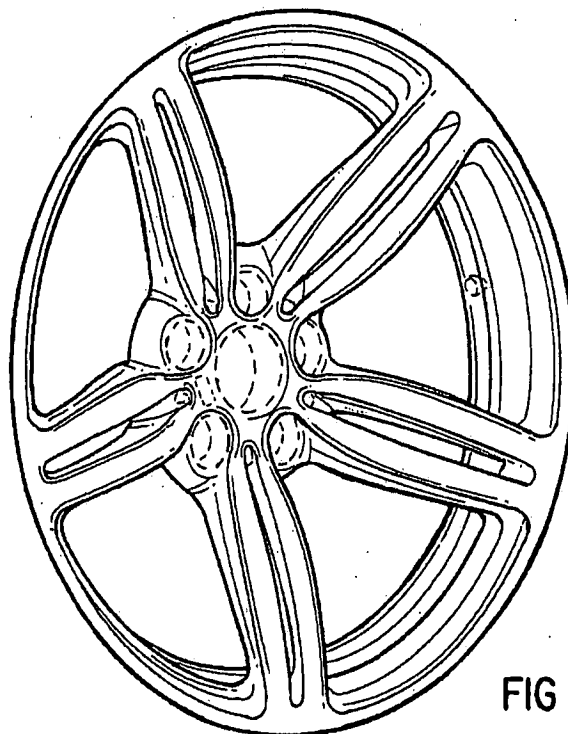


FIG. 2

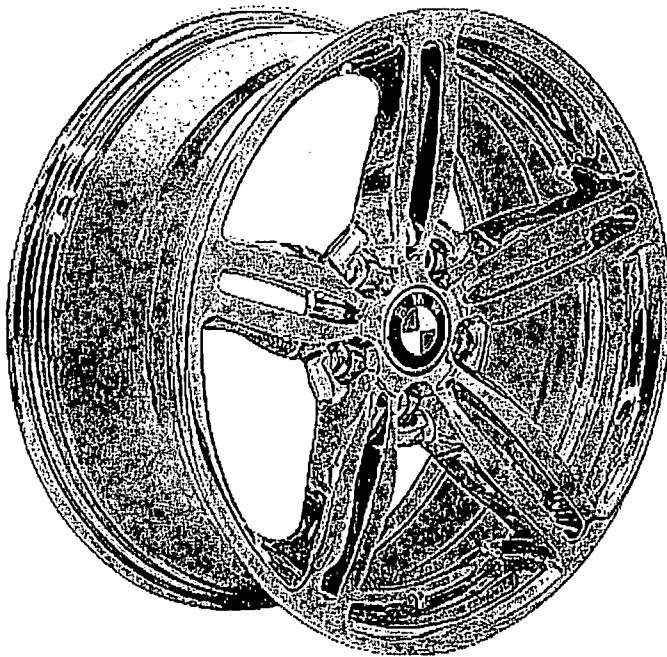


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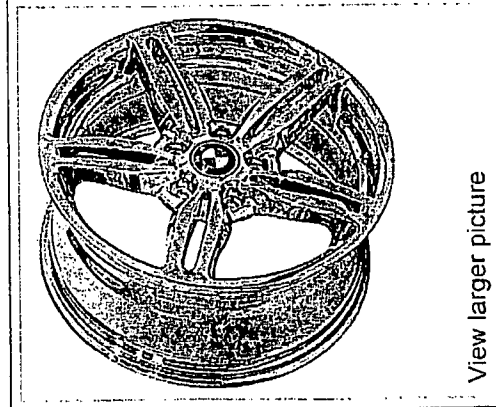
Listed in category: eBay Motors > Parts & Accessories > Car & Truck Parts > Wheels, Tires & Parts > Wheels > 18"

18 bmw 3 M3 318 320 323 325 328 330 e46 e90 wheels rims
 ~~~~\*\*\*AWESOME BMW SPECI@LS L@K IN OUR EBAY STORE\*\*\*

Item number: 350014310611

Buyer or seller of this item? Sign in for your status

Watch this item in My eBay



View larger picture

Buy It Now price: **US \$689.00** Buy It Now

Get low monthly payments

Shipping costs: **US \$89.00**

UPS Ground

Service to United States

Ships to: Worldwide

Item location: San Diego, CA, United States

Quantity: 20 available

History: Purchases

You can also:

Watch This Item

Get mobile or IM alerts | Email to a friend

Listing and payment details: Hide

**Meet the seller**

Seller: eurotechwheels ( 2073 ★ )

Feedback: **99.4% Positive**

Member: since Nov-15-01 in United States

- See detailed feedback
- Ask seller a question
- Add to Favorite Sellers
- View seller's other items: Store | List
- Visit seller's Store: [Euro Tech Luxury Wheels](#)

**Buy safely****1. Check the seller's reputation**Score: 2073 | 99.4% Positive  
See detailed feedback**2. Check how you're protected**

**PayPal** This item is covered up to \$2000 See eligibility

Returns: Seller accepts returns.  
7 Days Merchandise Credit

Starting time: Jan-11-08 13:17:56 PST  
Duration: 30-day listing  
Payment methods: PayPal (preferred),  
Money order/Cashiers  
check,  
Visa/MasterCard,  
American Express,  
Discover  
See details

## Description

EuroTech Luxury Wheels

eurotech wheels

858.245.1802

Visit my eBay Store:  EuroTech Luxury Wheels  
BMW Wheels | Mercedes Wheels

EXHIBIT 2B PAGE 42

**New Set of 18" Chrome EuroTech Wheel  
BMW Center Caps Included**

**—Each Bid Buys a Set of 4 Wheels/Caps**

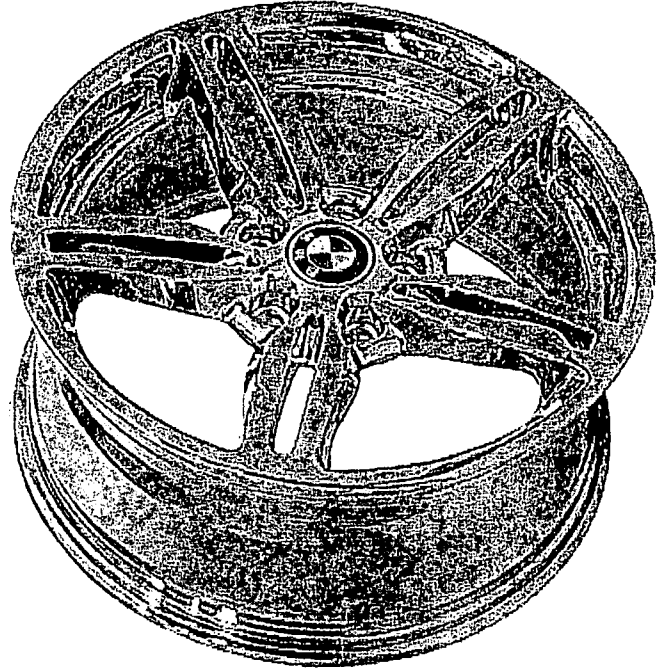


EXHIBIT 13 PAGE 43

Find more items from the same seller. Bid or Buy Now!



17 mercedes benz c cl clk e ml s slk amg wheels rims

**US \$459.00**

Time left: < 25 m



17" Audi A4 A6 A8 S4 S6 RS4 RS6 quattro wheels rims

**US \$495.00**

Time left: < 25 m



19 Bmw 3 M3 318 e46 318 320 323 325 328 330 wheels rims

**US \$795.00**

Time left: 1h 24m

Visit seller's Store

### Shipping, payment details, and return policy

**Ships to**

Worldwide

### Shipping and Handling

Country:  Quantity:  Update

**Shipping and Handling** Each Additional Item

US \$89.00

Free

To United States

Sen  
UPS  
1 to 6

\*Sellers are not responsible for service transit time. This information is provided by the carrier and excludes weekends and holidays. Note that transit times may vary, paid







US00D514999S

(12) **United States Design Patent** (10) Patent No.: **US D514,999 S**  
 Boyer (45) Date of Patent: **Feb. 14, 2006**

(54) **FRONT FACE OF A VEHICLE WHEEL**(75) Inventor: **Boyke Boyer, Ismaning (DE)**(73) Assignee: **Bayerische Motoren Werke Aktiengesellschaft, Munich (DE)**(\*\*) Term: **14 Years**(21) Appl. No.: **29/182,331**(22) Filed: **May 27, 2003**(30) **Foreign Application Priority Data**

Nov. 25, 2002 (DE) ..... 4 02 09 836

(51) LOC (8) Cl. .... 12-16

(52) U.S. Cl. .... D12/209

(58) Field of Classification Search ..... D12/204-213;  
301/37.101, 64.101, 65

See application file for complete search history.

(56) **References Cited****U.S. PATENT DOCUMENTS**

D409,968 S • 5/1999 Goplen ..... D12/211  
 D447,106 S • 8/2001 Chung ..... D12/209

D471,144 S • 3/2003 Pfeiffer ..... D12/209  
 D476,284 S • 6/2003 Pfeiffer et al. .... D12/211  
 D479,177 S • 9/2003 Nordmann ..... D12/211  
 D494,523 S • 8/2004 Koenigsberg ..... D12/209  
 D502,137 S • 2/2005 Blum ..... D12/211  
 D504,099 S • 4/2005 Boyer ..... D12/211  
 D504,651 S • 5/2005 Johnson ..... D12/211

\* cited by examiner

Primary Examiner—Stacia Cadmus

(74) Attorney, Agent, or Firm—Crowell &amp; Moring LLP

(57) **CLAIM**

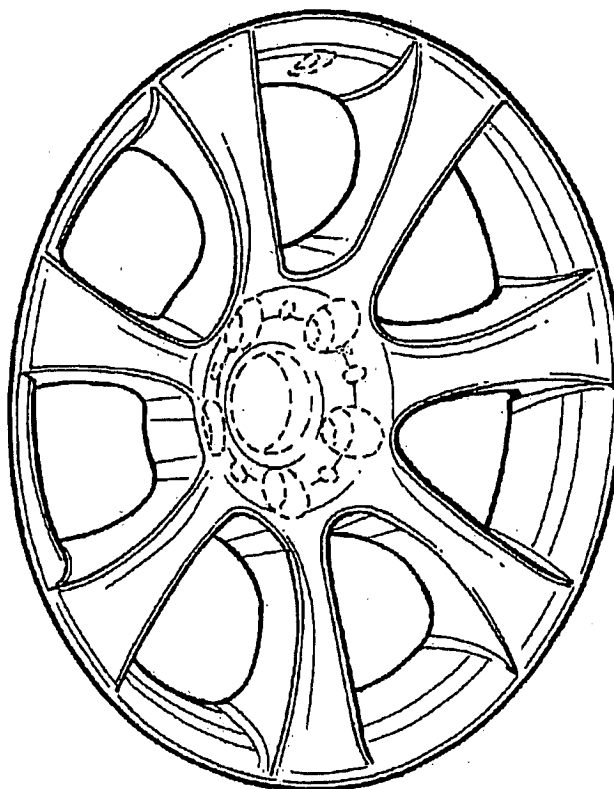
The ornamental design for a front face of a vehicle wheel, as shown and described.

**DESCRIPTION**

FIG. 1 is a front view of a front face of a vehicle wheel according to my novel design; and,

FIG. 2 is a perspective view of the front face of a vehicle wheel according to my novel design.

The broken lines are for illustrative purposes only and form no part of the claimed design.

**1 Claim, 1 Drawing Sheet**

U.S. Patent

Feb. 14, 2006

US D514,999 S

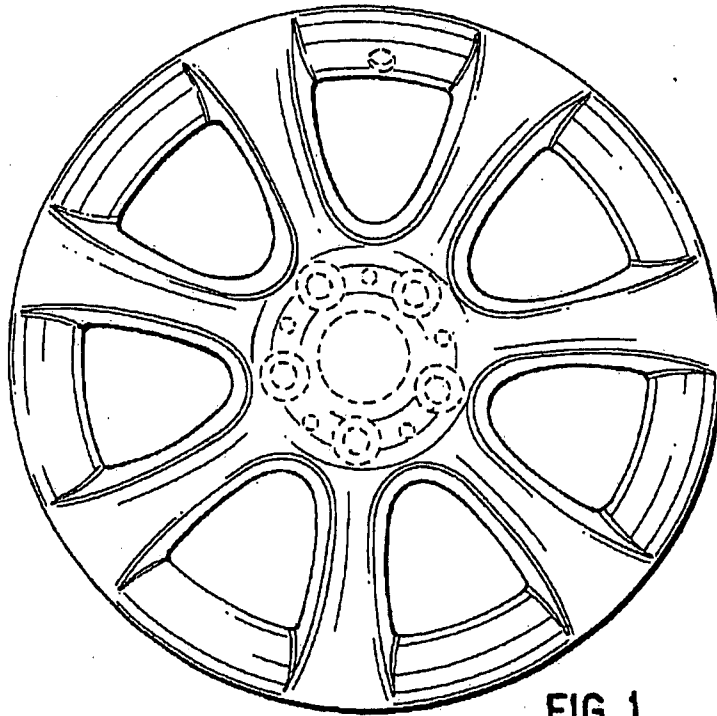


FIG. 1

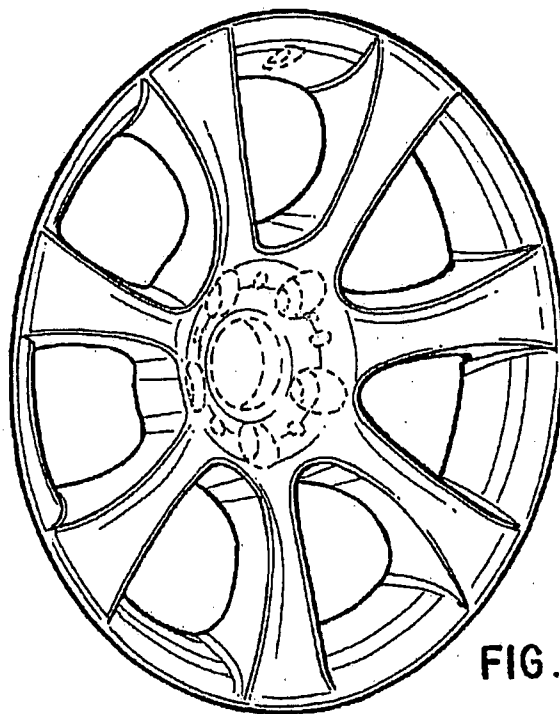
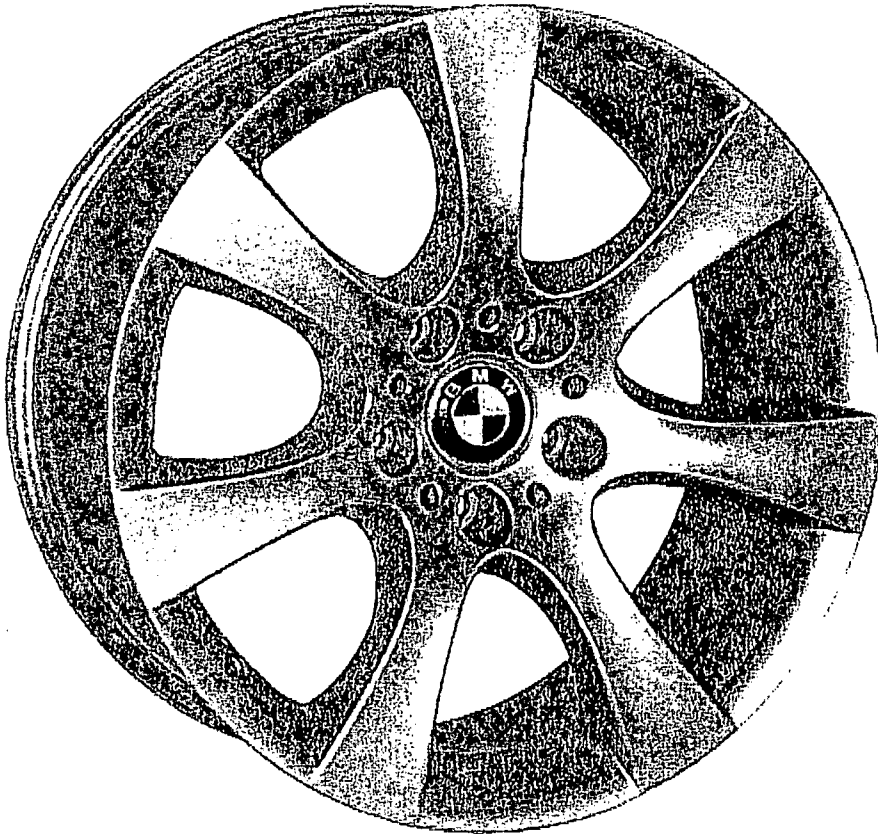


FIG. 2









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All of eBay Motors 

Cars &amp; Trucks Parts &amp; Accessories Motorcycles Powersports Boats Other Vehicles

Back to list of items

Listed in category: eBay Motors &gt; Parts &amp; Accessories &gt; Car &amp; Truck Parts &gt; Wheels, Tires &amp; Parts &gt; Wheels &gt; 17"

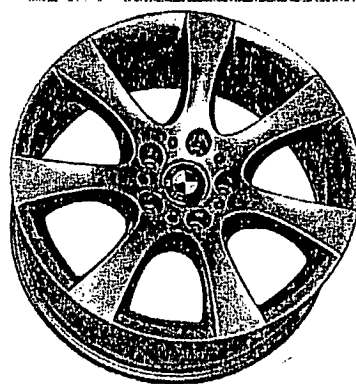
## 17 Bmw 5 6 7 8 series 525 530 540 545 745 m wheels rims

~1~ TIME CLEARANCE \*\*\*SALE\*\*\* L@@K AT OUR EBAY STORE

Item number: 350014310965

Buyer or seller of this item? Sign in for your status

Watch this item in My eBay



View larger picture

Buy It Now price: **US \$475.00** Buy It Now

Get low monthly payments

Shipping costs: **US \$89.00**

UPS Ground

Service to United States

Ships to: Worldwide

Item location: San Diego, CA, United States

Quantity: 20 available

History: Purchases

You can also:

Watch This Item

Get mobile or IM alerts | Email to a friend

Listing and payment details: Hide

### Meet the seller

Seller: eurotechwheels ( 2073 ★ )

Feedback: **99.4% Positive**

Member: since Nov-15-01 in United States

- See detailed feedback
- Ask seller a question
- Add to Favorite Sellers
- View seller's other items: Store | List
- Visit seller's Store: [EuroTech Luxury Wheels](#)

### Buy safely

#### 1. Check the seller's reputation

Score: 2073 | 99.4% Positive  
See detailed feedback

#### 2. Check how you're protected

Starting time: Jan-11-08 13:19:10 PST  
Duration: 30-day listing

Payment methods: **PayPal** (preferred),  
Money order/Cashiers  
check,  
Visa/MasterCard,  
American Express,  
Discover  
See details

**PayPal** This item is covered up to  
\$2000 See [eligibility](#)

Returns: Seller accepts returns.  
7 Days Merchandise Credit

### Description

EuroTech Luxury Wheels

**eurotech wheels**

**858.245.1802**

Visit my eBay Store:  EuroTech Luxury Wheels  
BMW Wheels | Mercedes Wheels

**AND BID CONFIDENTLY ON A GREAT PRODUCT**

- ⊕ The best in the bussiness ,awesome chrome finish and super fast shipping A++++ supersport9000 ( hls520 (14 ☆
- ⊕ wheel are some of the best I have seen. Thanks eurotech. elc1418 (59 ★)
- ⊕ WOW!!! Awesome rims. Awesome service. Never seen my car look better. A+++ harpc (326 ☆)
- ⊕ Absolutely beautiful rims, look really expensive! Compliments right out of box!! smelody (215 ☆
- ⊕ WOW I AM VERY IMPRESSED. THESE ARE THE BEST WHEELS EVER! Quick johnmdvr (371 ☆
- ⊕ VERY VERY HAPPY. YOU MADE MY MERCEDEZ COMPLETE AAA+++SELLER dwright14u (Z)
- ⊕ Great wheels at a great price! Service is A+++! Seller is at the top of my list! khaled\_nn (6)
- ⊕ Amazing seller, Good customer care, available all the time , fast shipping. snakeveg (57 ★
- ⊕ Quick shipment to HK. Why would anyone pay 10 times more from the dealer? drae1996 (139
- ⊕ Best deal in the world on mercedes benze wheels I highly recomend them. dmack320 (1)
- ⊕ thanks the rims look great!!! people cant stop staring. AAAAAA+++++ captainstarmark
- ⊕ GREAT RIMS, HAD PROBLEM WITH ONE, RYAN SENT ANOTHER RIM AT NO CHARGE. A+++++ jdcristo (112 ☆
- ⊕ WOW!! MORE THAN I EXPECTED!!! YOU HAVE EARNED A CUSTOMER 4 LIFE
- ⊕ Excellent service, fast delivery, perfect fitment, nice quality. Thanks Buyer carajito734 (70 ★) 799
- ⊕ Awesome, dramatically changed the look for the better. All that i Buyer taylorh473 (3) 800
- ⊕ your first priority was to make sure i was priority, im loving the chrome rims, Buyer jblamont (20 ☆) 799
- ⊕ chrome rims,

**SAME FIT/QUALITY AS YOUR FACTORY RIMS  
GUARANTEED OR YOUR MONEY BACK**

Find more items from the same seller. Bid or Buy Now!



19 Bmw 3 M3 318 e46 318 320 323 325 328  
330 wheels rims

[Buy It Now](#)

US \$795.00

Time left:

1h 11m



18 Bmw 5 6 7 8 series M5 525 530 540 740  
745 850 wheels

[Buy It Now](#)

US \$745.00

Time left:

1h 53m



18 8.5/9.5 Chrome Bmw 3 5 6 7 8 M Z Series  
Wheels Rims

[Buy It Now](#)






US \$659.00

Time left:

2h 11m

[Visit seller's Store](#)

**Shipping, payment details, and return policy**

|                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                          |                                       |                                     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|---------------------------------------|-------------------------------------|
| <b>Ships to</b><br>Worldwide                                                                                                                                                                                                                                                                                                                                                                                                                  |                                          |                                       |                                     |
| <b>Shipping and Handling</b>                                                                                                                                                                                                                                                                                                                                                                                                                  |                                          |                                       |                                     |
| Country: <input type="text" value="United States"/>                                                                                                                                                                                                                                                                                                                                                                                           | Quantity: <input type="text" value="1"/> | <input type="button" value="Update"/> |                                     |
| <b>Shipping and Handling</b>                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Each Additional Item</b>              | <b>To</b>                             | <b>Service</b>                      |
| US \$89.00                                                                                                                                                                                                                                                                                                                                                                                                                                    | Free                                     | United States                         | UPS Ground<br>1 to 6 business days* |
| *Sellers are not responsible for service transit time. This information is provided by the carrier and excludes weekends and holidays. Note that transit times may vary, particularly during peak periods.                                                                                                                                                                                                                                    |                                          |                                       |                                     |
| <b>Shipping insurance</b><br>Not offered                                                                                                                                                                                                                                                                                                                                                                                                      |                                          |                                       |                                     |
| <b>Seller's payment instructions</b><br>Thanks for your purchase. Please follow the links to checkout.                                                                                                                                                                                                                                                                                                                                        |                                          |                                       |                                     |
| <b>Seller's return policy:</b><br>Item must be returned within: 7 Days<br>Refund will be given as: Merchandise Credit                                                                                                                                                                                                                                                                                                                         |                                          |                                       |                                     |
| <b>Payment methods accepted</b>                                                                                                                                                                                                                                                                                                                                                                                                               |                                          |                                       |                                     |
|      |                                          |                                       |                                     |
| <ul style="list-style-type: none"> <li>Money order/Cashiers check</li> </ul>                                                                                                                                                                                                                                                                                                                                                                  |                                          |                                       |                                     |

- Visa/MasterCard, American Express, Discover

## Ready to Buy?

Item title: 17 Bmw 5 6 7 8 series 525 530 540 545 745 m wheels rims

Buy It Now

Buy It Now price: US \$475.00

Your Quantity: x

Buy It Now

You will confirm in the next step.

Help

## What else can you do?

- Back to list of items | Report this item | Printer Version | Sell one like this

Seller assumes all responsibility for listing this item.

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US00D504382S

(12) **United States Design Patent** (10) Patent No.: **US D504,382 S**  
 Elmitt (45) Date of Patent: **\*\* Apr. 26, 2005**

(54) **FRONT FACE OF A VEHICLE WHEEL**

(75) Inventor: **Karl John Elmitt, Eching (DE)**

(73) Assignee: **Bayerische Motoren Werke  
 Aktiengesellschaft, Munich (DE)**

(\*\*) Term: **14 Years**

(21) Appl. No.: **29/202,528**

(22) Filed: **Apr. 1, 2004**

(30) **Foreign Application Priority Data**

Oct. 2, 2003 (DE) ..... 40306561

(51) LOC (7) Cl. .... 12-16

(52) U.S. Cl. .... D12/211

(58) Field of Search ..... D12/204-213;  
 301/37.101, 64.101, 65

(56) **References Cited**

**U.S. PATENT DOCUMENTS**

D414,454 S • 9/1999 Chung ..... D12/211  
 D451,467 S • 12/2001 Chung ..... D12/211

D457,119 S • 5/2002 Braun et al. .... D12/211  
 D473,836 S • 4/2003 Laengerer ..... D12/211  
 D486,115 S • 2/2004 Chung ..... D12/211  
 D487,420 S • 3/2004 Kang ..... D12/211  
 D490,760 S • 6/2004 Sands ..... D12/209  
 D497,870 S • 11/2004 Cahyono ..... D12/211

\* cited by examiner

*Primary Examiner—Stacia Cadmus*

(74) *Attorney, Agent, or Firm—Crowell & Moring LLP*

(57) **CLAIM**

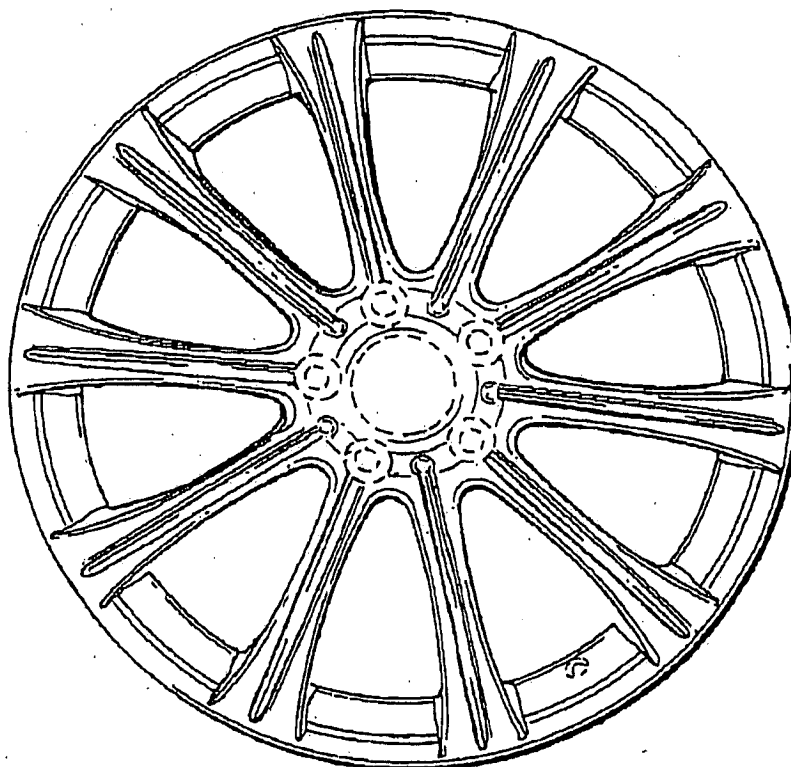
The ornamental design for a front face of a vehicle wheel,  
 as shown and described.

#### DESCRIPTION

FIG. 1 is a front view of a front face of a vehicle wheel  
 according to my novel design; and,  
 FIG. 2 is a perspective view of the front face of a vehicle  
 wheel according to my novel design.

The broken lines are for illustrative purposes only and form  
 no part of the claimed design.

**1 Claim, 1 Drawing Sheet**



U.S. Patent

Apr. 26, 2005

US D504,382 S

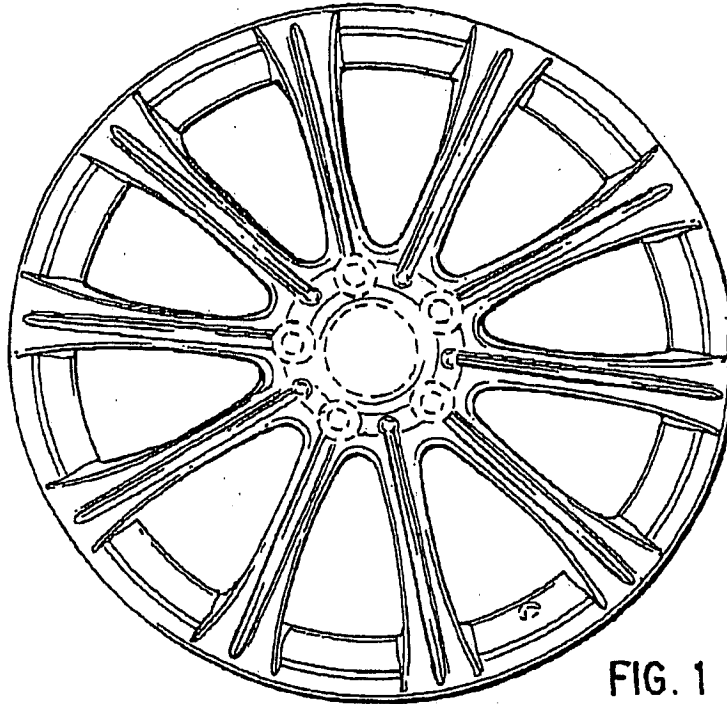


FIG. 1

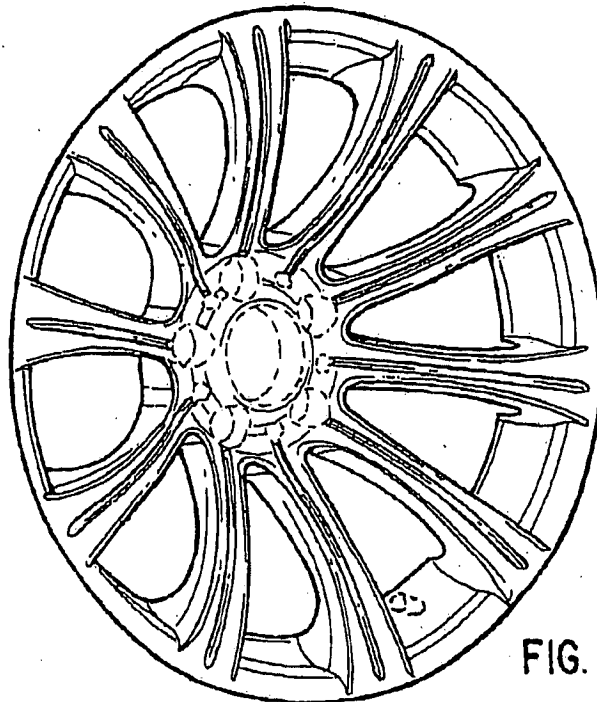


FIG. 2



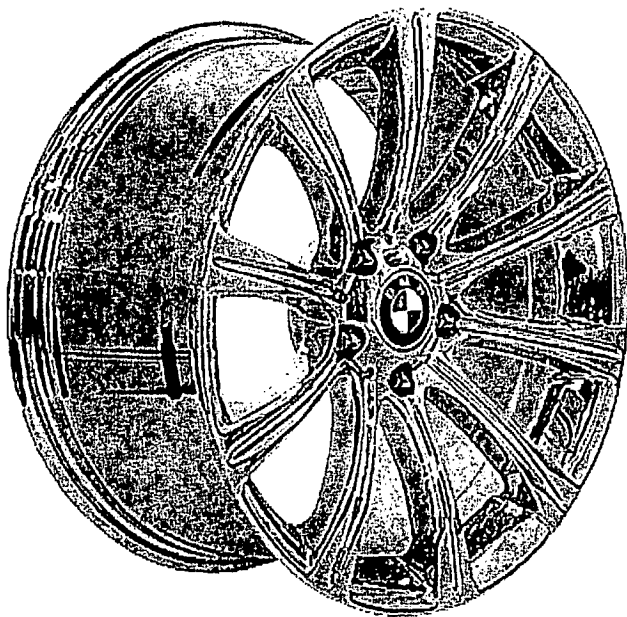
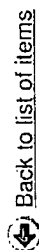


EXHIBIT 43 PAGE 56

eBay Motors: 18 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims (item 350013378509 end time Jan-11-08 10:26:45 PST) Seite 1 von 9


[eBay home](#) | [Pay](#) | [Register](#) | [Sign in](#) | [Site Map](#) | [Community](#) | [Help](#)
[Search eBay Motors](#) [Start new search](#) [Search](#) [Advanced Search](#)

[Back to list of items](#)

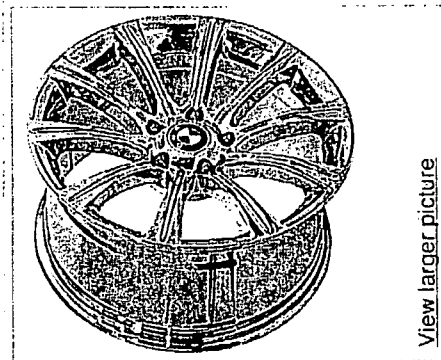
 Listed in category: [eBay Motors](#) > [Parts & Accessories](#) > [Car & Truck Parts](#) > [Wheels, Tires & Parts](#) > [Wheels](#) > [18"](#)

## 18 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims

~SEE OUR EBAY STORE - WE'LL BEAT ANY PRICE, GUARANTEED~

 Buyer or seller of this item? [Sign in](#) for your status

Item number: 350013378509

[Watch this item](#) in My eBay

[View larger picture](#)
[Buy it now](#) price: **US \$725.00** [Buy It Now](#) >

[Get low monthly payments](#)
End time: **3 hours 10 mins** (Jan-11-08 10:26:45 PST)

Shipping costs:

US \$89.00

UPS Ground

Service to [United States](#)

Worldwide

Ships to:

Item location: san diego, United States

Quantity: 10 available

[Purchases](#)

History:

You can also:

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[Listing and payment details:](#) [Show](#)
[Description](#)
[http://cgi.ebay.com/ebaymotors/18-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims\\_W00QQcmdZViewItemQQcategoryZ43958QQinZ022QQite...](http://cgi.ebay.com/ebaymotors/18-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims_W00QQcmdZViewItemQQcategoryZ43958QQinZ022QQite...) 11.01.2008

### Meet the seller

Seller: [eurotechwheels](#) (2049 ★)Feedback: **99.3% Positive**

Member: since Nov-15-01 in United States

[See detailed feedback](#)
[Ask seller a question](#)
[Add to Favorite Sellers](#)
[View seller's other items:](#) [Store](#) | [List](#)
[Visit seller's Store:](#)
[EuroTech Luxury Wheels](#)

### Buy safely

#### 1. Check the seller's reputation

Score: 2049 | 99.3% Positive

[See detailed feedback](#)

#### 2. Check how you're protected

**PayPal** This item is covered **up to \$2,000** See eligibility

Returns: Seller accepts returns.

[7 Days Merchandise Credit](#)

Seite 2 von 9

eBay Motors: 18 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims (item 350013378509 end time Jan-11-08 10:26:45 PST)

EuroTech Luxury Wheels

eurotech wheels

858.245.1802

Visit my eBay Store:  [EuroTech Luxury Wheels](#)

[BMW Wheels](#) | [Mercedes Wheels](#)

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[Search](#)

[Add to Favorite Stores](#)

EXHIBIT 4B PAGE 58

[http://cgi.ebay.com/ebaymotors/18-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims\\_W0QQcmdZViewItemQQcategoryZ43958QQihZ022QQite...](http://cgi.ebay.com/ebaymotors/18-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims_W0QQcmdZViewItemQQcategoryZ43958QQihZ022QQite...) 11.01.2008



Seite 5 von 9

eBay Motors: 18 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims (item 350013378509 end time Jan-11-08 10:26:45 PST)

SET OF (4) BRAND NEW 18" BMW RIMS  
STAGGERED OEM DESIGN

-----Each Bid Buys a Set of 4 Wheels/Caps-----

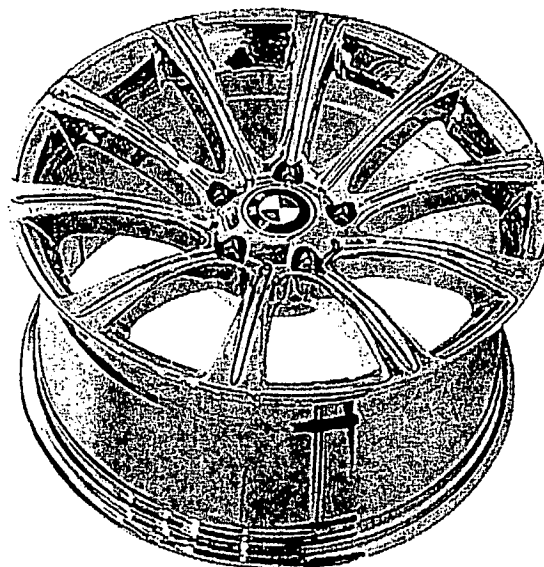


EXHIBIT 43 PAGE 39

[http://cgi.ebay.com/ebaymotors/18-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims\\_W0QQcmdZViewItemQQcategoryZ43958QQihZ022QQite...](http://cgi.ebay.com/ebaymotors/18-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims_W0QQcmdZViewItemQQcategoryZ43958QQihZ022QQite...) 11.01.2008

Seite 7 von 9

eBay Motors: 18 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims (item 350013378509 end time Jan-11-08 10:26:45 PST)

Find more items from the same seller. Bid or Buy Now!

17" Audi A4 A6 A8 S4 S6 RS4  
RS6 quattro wheels rims

**Buy It Now** US \$495.00  
Time left: < 53 m

19 Bmw 3 M3 318 e46 318 320  
323 325 328 330 wheels rims

**Buy It Now** US \$795.00  
Time left: 1h 52m

19 black mercedes c clk e ml r  
s sl slk amg wheels rims

**Buy It Now** US \$695.00  
Time left: 2h 52m

17 Bmw 5 6 7 8 series 525 530  
540 545 745 m wheels rims

**Buy It Now** US \$675.00  
Time left: 3h 22m

Visit seller's Store

## Shipping and handling

Ships to

Worldwide

Country:  Quantity:  

| Shipping and Handling | Each Additional Item | To            | Service                             |
|-----------------------|----------------------|---------------|-------------------------------------|
| US \$89.00            | + \$89.00            | United States | UPS Ground<br>1 to 6 business days* |

\*Sellers are not responsible for service transit time. This information is provided by the carrier and excludes weekends and holidays. Note that transit times may vary, particularly during peak periods.

Shipping insurance

Included (in the shipping and handling cost)

Sales tax

[http://cgi.ebay.com/ebaymotors/18-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims\\_W0QQcmdZViewItemQQcategoryZ43958QQihZ022QQite...](http://cgi.ebay.com/ebaymotors/18-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims_W0QQcmdZViewItemQQcategoryZ43958QQihZ022QQite...) 11.01.2008

EXHIBIT 4B PAGE 60

eBay Motors: 18 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims (item 350013378509 end time Jan-11-08 10:26:45 PST)

Seller charges sales tax for items shipped to: CA (7.750%).

### Return policy

Item must be returned within: 7 Days

Refund will be given as: Merchandise Credit

### Payment details

Payment method

Preferred/Accepted

**PayPal**



Seller Preferred

Personal check

Accepted

Money order/Cashiers check

Accepted

Visa/MasterCard, American Express, Discover

Accepted

### Seller's payment instructions

Thanks for your purchase. Please follow links to checkout.

### Take action on this item

Item title: 18 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims

**Buy It Now**

Buy It Now notice 115 \$725.00

[Help](#)

[http://cgi.ebay.com/ebaymotors/18-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims\\_W0QQcmdZViewItemQcategoryZ43958QQihZ022QQite...](http://cgi.ebay.com/ebaymotors/18-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims_W0QQcmdZViewItemQcategoryZ43958QQihZ022QQite...) 11.01.2008

Seite 9 von 9

eBay Motors: 18 Bmw 5 6 7 8 series 525 530 540 545 740 wheels rims (item 350013378509 end time Jan-11-08 10:26:45 PST)

Your Quantity: x

**Buy It Now >** You will confirm in the next step.

Purchase this item now without bidding. [Learn about Buy It Now.](#)

### Other options

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Seller assumes all responsibility for listing this item.

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EXHIBIT 412 PAGE 62

[http://cgi.ebay.com/ebaymotors/18-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims\\_W0QQcmdZViewItemQQcategoryZ43958QQihZ022QQite...](http://cgi.ebay.com/ebaymotors/18-Bmw-5-6-7-8-series-525-530-540-545-740-wheels-rims_W0QQcmdZViewItemQQcategoryZ43958QQihZ022QQite...) 11.01.2008







US00D493404S1

(12) **United States Design Patent** (10) Patent No.: **US D493,404 S**  
**Baum** (45) Date of Patent: **\*\* Jul. 27, 2004**

(54) **FRONT FACE OF A VEHICLE WHEEL**

(75) Inventor: **Stephan Baum, Olching (DE)**

(73) Assignee: **Bayerische Motoren Werke Aktiengesellschaft, Munich (DE)**

(\*\*) Term: **14 Years**

(21) Appl. No.: **29/182,333**

(22) Filed: **May 27, 2003**

(30) **Foreign Application Priority Data**

Nov. 25, 2002 (DE) ..... 4 02 09 836

(51) LOC (7) Cl. .... **12-16**

(52) U.S. Cl. .... **D12/211**

(58) Field of Search ..... **D12/204-213;**  
**301/37.101, 64.101, 65**

(56) **References Cited**

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D409,132 S • 5/1999 Cullen ..... D12/211  
D410,426 S • 6/1999 Frizzi ..... D12/211  
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D468,250 S • 1/2003 Donikoglu ..... D12/209  
D473,836 S • 4/2003 Laengerer ..... D12/211  
D474,440 S • 5/2003 Oh ..... D12/211  
D480,035 S • 9/2003 Frohlich ..... D12/211  
D480,036 S • 9/2003 Laengerer ..... D12/211  
D482,309 S • 11/2003 Sulahian ..... D12/211  
D483,714 S • 12/2003 Warming ..... D12/211  
D484,447 S • 12/2003 Warming ..... D12/211  
D486,111 S • 2/2004 Weidhase ..... D12/211

\* cited by examiner

Primary Examiner—Stacia Cadmus

(74) Attorney, Agent, or Firm—Crowell & Moring LLP

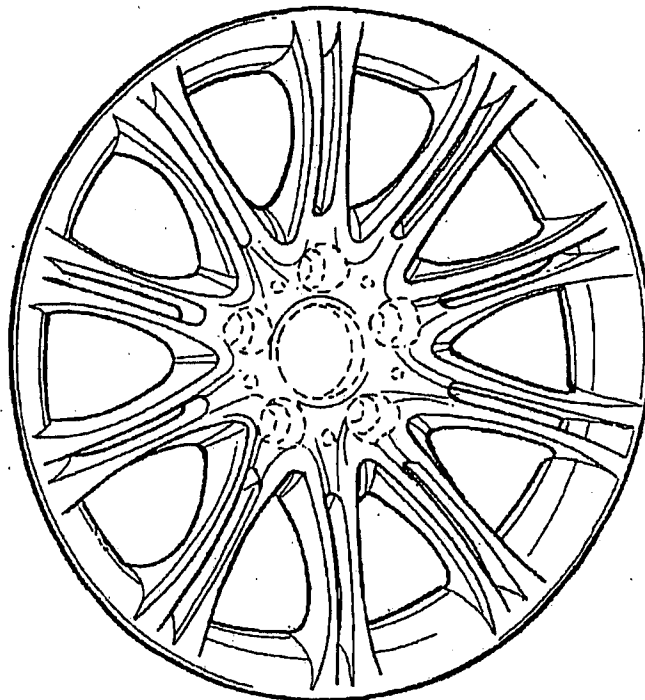
(57) **CLAIM**

The ornamental design for a front face of a vehicle wheel, as shown and described.

**DESCRIPTION**

FIG. 1 is a front view of a front face of a vehicle wheel according to my novel design; and,  
FIG. 2 is a perspective view of the front face of a vehicle wheel according to my novel design.

1 Claim, 1 Drawing Sheet



U.S. Patent

Jul. 27, 2004

US D493,404 S

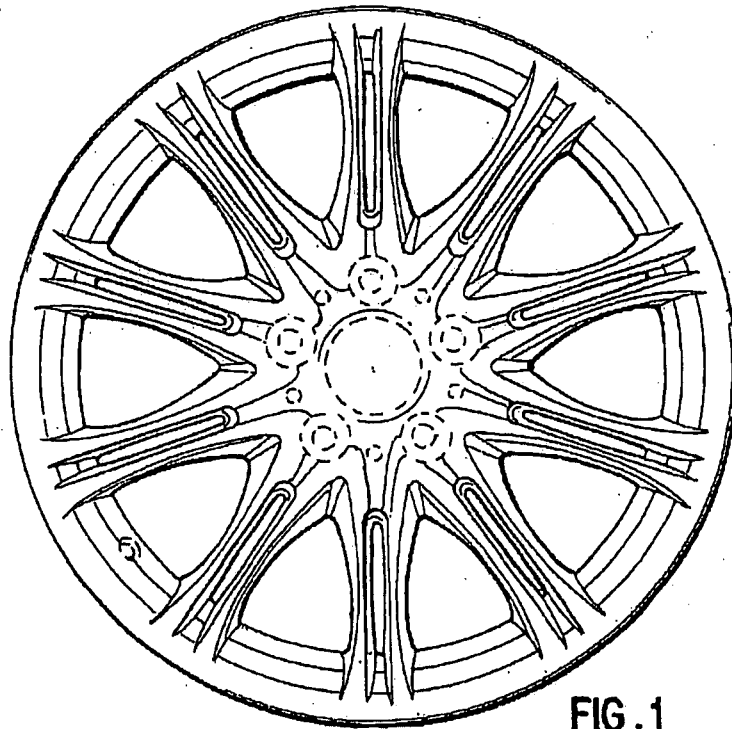


FIG. 1

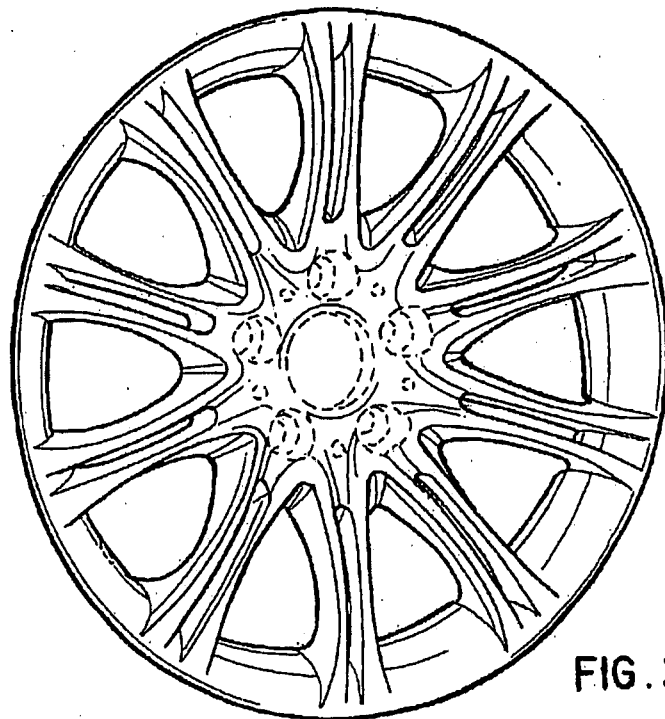
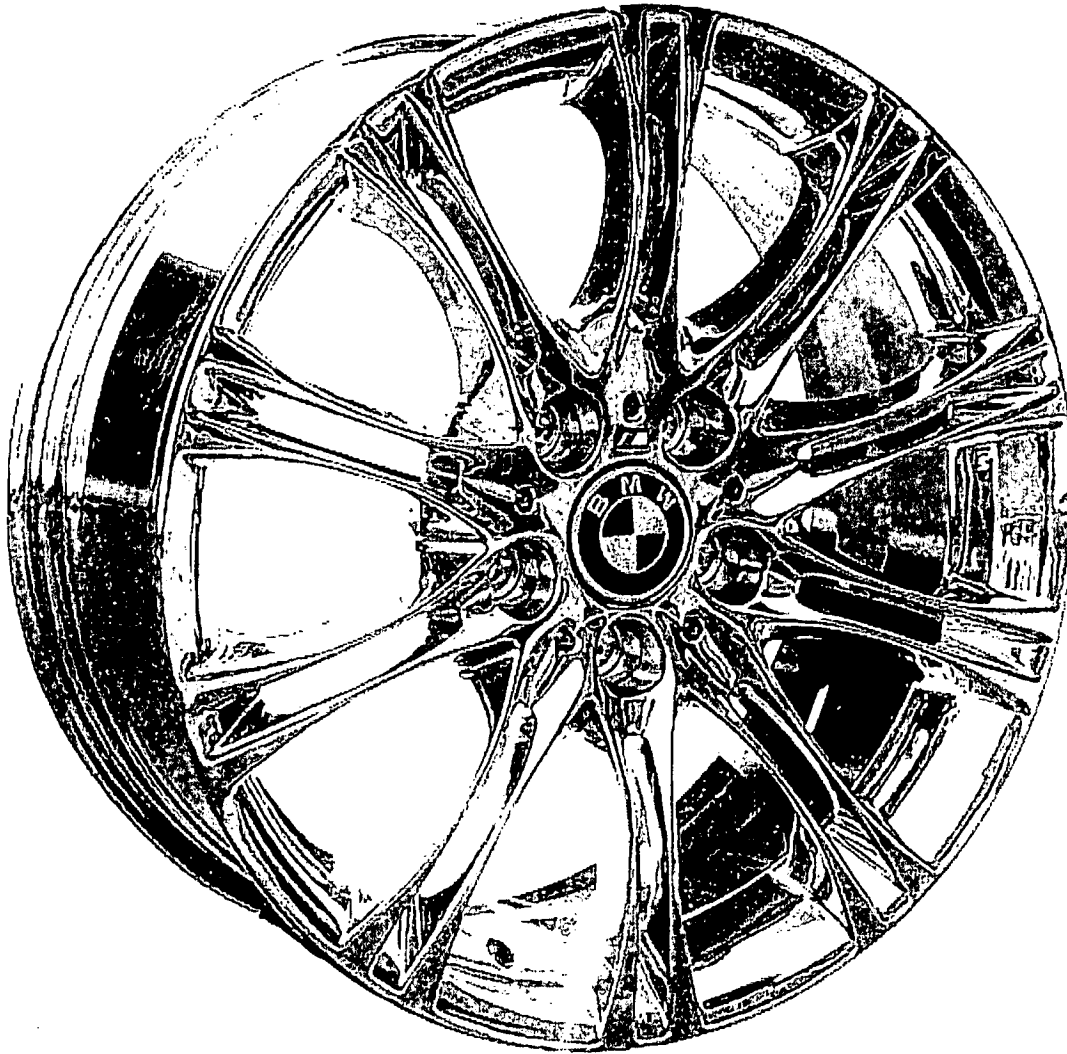


FIG. 2







eBay Motors: 18 bmw 3 series 325 330 m3 e46 e90 z3 328 wheels rims (item 350013385158 end time Jan-11-08 10:44:46 PST)

Seite 1 von 10

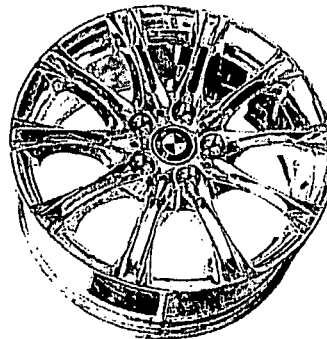

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[Search eBay Motors](#)
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[Home](#) | [Buy](#) | [Sell](#) | [My eBay](#) | [Buyer Services & Protection](#) | [Tips & Advice](#)

[Back to list of items](#)
[Listed in category: eBay Motors > Parts & Accessories > Car & Truck Parts > Wheels, Tires & Parts > Wheels > 18"](#)

## 18 bmw 3 series 325 330 m3 e46 e90 z3 328 wheels rims ~~L@K IN OUR EBAY STORE - TONS OF GREAT BMW WHEELS~~

[Buyer or seller of this item? Sign in](#) for your status

Item number: 350013385158

[Watch this item](#) in My eBay

[View larger picture](#)
[Buy it now](#) price: **US \$595.00**    [Buy it now](#) >

[Get low monthly payments](#)
End time: **3 hours 27 mins** (Jan-11-08 10:44:46 PST)

Shipping costs:

US \$89.00

UPS Ground  
Service to [United States](#)

Ships to:

Worldwide

Item location:

san diego, United States

Quantity:

10 available

History:

[Purchases](#)

You can also:

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[Listing and payment details: Show](#)

### Description

#### Meet the seller

Seller: [eurotechwheels](#) (2049 ★)Feedback: **99.3% Positive**

Member: since Nov-15-01 in United States

[See detailed feedback](#)
[Ask seller a question](#)
[Add to Favorite Sellers](#)
[View seller's other items: Store](#) | [List](#)
[Visit seller's Store:](#)
[EuroTech Luxury Wheels](#)

#### Buy safely

##### 1. Check the seller's reputation

Score: 2049 | 99.3% Positive

[See detailed feedback](#)

##### 2. Check how you're protected

**PayPal** This item is covered **up to \$2,000** [See eligibility](#)

Returns: Seller accepts returns.

[7 Days Merchandise Credit](#)

Seite 2 von 10

eBay Motors: 18 bmw 3 series 325 330 m3 e46 e90 z3 328 wheels rims (item 350013385158 end time Jan-11-08 10:44:46 PST)

EuroTech Luxury Wheels

**eurotech wheels****858.245.1802**Visit my eBay Store:  [EuroTech Luxury Wheels](#)[BMW Wheels](#) | [Mercedes Wheels](#)[Search my eBay Store:](#)[Search](#)[Add to Favorite Stores](#)EXHIBIT SP PAGE 67[http://cgi.ebay.com/ebaymotors/18-bmw-3-series-325-330-m3-e46-e90-z3-328-wheels-rims\\_W00QQcmdZViewItemQcategoryZ43958QQihZ022QQite...](http://cgi.ebay.com/ebaymotors/18-bmw-3-series-325-330-m3-e46-e90-z3-328-wheels-rims_W00QQcmdZViewItemQcategoryZ43958QQihZ022QQite...) 11.01.2008

Seite 6 von 10

eBay Motors: 18 bmw 3 series 325 330 m3 e46 e90 z3 328 wheels rims (item 350013385158 end time Jan-11-08 10:44:46 PST)

SET OF (4) NEW CHROME 18" BMW RIMS  
EXACT FACTORY REPLICAS- CAPS INCLUDED

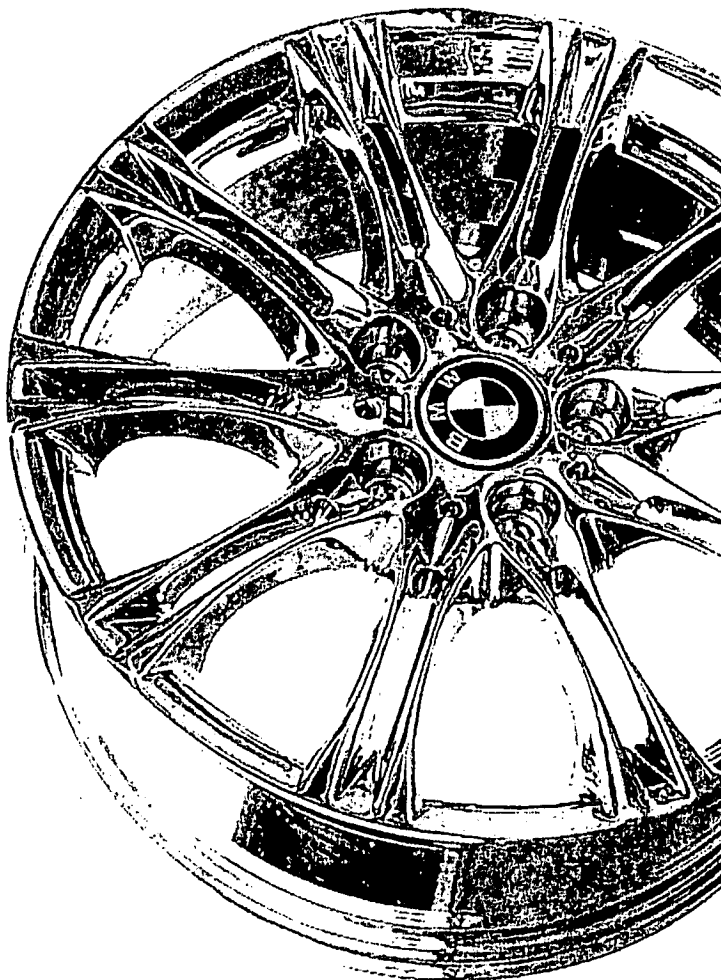


EXHIBIT SB PAGE 68

[http://cgi.ebay.com/ebaymotors/18-bmw-3-series-325-330-m3-e46-e90-z3-328-wheels-rims\\_W0QQcmdZViewItemQQcategoryZ43958QQihZ0222QQite...](http://cgi.ebay.com/ebaymotors/18-bmw-3-series-325-330-m3-e46-e90-z3-328-wheels-rims_W0QQcmdZViewItemQQcategoryZ43958QQihZ0222QQite...) 11.01.2008

Seite 8 von 10

eBay Motors: 18 bmw 3 series 325 330 m3 e46 e90 z3 328 wheels rims (item 350013385158 end time Jan-11-08 10:44:46 PST)

Find more items from the same seller. Bid or Buy Now!

17" Audi A4 A6 A8 S4 S6 RS4  
RS6 quattro wheels rims

Buy It Now US \$495.00

Time left: &lt; 52 m

19 Bmw 3 M3 318 e46 318 320  
323 325 328 330 wheels rims

Buy It Now US \$795.00

Time left: 1h 51m

19 black mercedes c clk e ml r  
s sl slk amg wheels rims

Buy It Now US \$695.00

Time left: 2h 51m

17 Bmw 5 6 7 8 series 525 530  
540 545 745 m wheels rims

Buy It Now US \$675.00

Time left: 3h 21m

Visit seller's Store

## Shipping and handling

Ships to  
WorldwideCountry:  Quantity:  

| Shipping and Handling | Each Additional Item | To            | Service                             |
|-----------------------|----------------------|---------------|-------------------------------------|
| US \$89.00            | + \$89.00            | United States | UPS Ground<br>1 to 6 business days* |

\*Sellers are not responsible for service transit time. This information is provided by the carrier and excludes weekends and holidays. Note that transit times may vary, particularly during peak periods.

Shipping insurance  
Included (in the shipping and handling cost)

Sales tax

EXHIBIT

PAGE 69

http://cgi.ebay.com/ebaymotors/18-bmw-3-series-325-330-m3-e46-e90-z3-328-wheels-rims\_W0QQcmdZViewItemQcategoryZ43958QQihZ022QQite... 11.01.2008

Seite 9 von 10

eBay Motors: 18 bmw 3 series 325 330 m3 e46 e90 z3 328 wheels rims (item 350013385158 end time Jan-11-08 10:44:46 PST)

Seller charges sales tax for items shipped to: CA (7.750%).

## Return policy

Item must be returned within: 7 Days

Refund will be given as: Merchandise Credit

## Payment details

Payment method



Preferred/Accepted

Seller Preferred

Personal check

Accepted

Money order/Cashiers check

Accepted

Visa/MasterCard, American Express, Discover

Accepted

### Seller's payment instructions

Thanks for your purchase. Please follow links to checkout.

## Take action on this item

Item title: 18 bmw 3 series 325 330 m3 e46 e90 z3 328 wheels rims

Buy It Now

Buy It Now price: 115 \$595.00

[http://cgi.ebay.com/ebaymotors/18-bmw-3-series-325-330-m3-e46-e90-z3-328-wheels-rims\\_W0QQcmdZViewItemQQcategoryZ43958QQihZ022QQite...](http://cgi.ebay.com/ebaymotors/18-bmw-3-series-325-330-m3-e46-e90-z3-328-wheels-rims_W0QQcmdZViewItemQQcategoryZ43958QQihZ022QQite...) 11.01.2008

[Help](#)


eBay Motors: 18 bmw 3 series 325 330 m3 e46 e90 z3 328 wheels rims (item 350013385158 end time Jan-11-08 10:44:46 PST) Seite 10 von 10

Your Quantity: x

**Buy It Now >** You will confirm in the next step.

Purchase this item now without bidding. [Learn about Buy It Now.](#)

### Other options

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Seller assumes all responsibility for listing this item.

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EXHIBIT **5B** PAGE **70A**

[http://cgi.ebay.com/ebaymotors/18-bmw-3-series-325-330-m3-e46-e90-z3-328-wheels-rims\\_W0QQcmdZViewItemQQcategoryZ43958QQihZ022QQite...](http://cgi.ebay.com/ebaymotors/18-bmw-3-series-325-330-m3-e46-e90-z3-328-wheels-rims_W0QQcmdZViewItemQQcategoryZ43958QQihZ022QQite...) 11.01.2008









US00D470093S

(12) **United States Design Patent** (10) Patent No.: **US D470,093 S**  
**Frizzi** (45) Date of Patent: **\*\* Feb. 11, 2003**

(54) **FRONT FACE OF A VEHICLE WHEEL**(75) Inventor: **Roberto Frizzi, Brescia (IT)**(73) Assignee: **Buyerische Motoren Werke Aktiengesellschaft, Munich (DE)**(\*\*) Term: **14 Years**(21) Appl. No.: **29/141,903**(22) Filed: **May 16, 2001**(30) **Foreign Application Priority Data**

Nov. 16, 2000 (DE) ..... 4 00 10 998

(51) LOC (7) Cl. .... 12-16

(52) U.S. Cl. .... D12/209

(58) Field of Search ..... D12/204-211;  
301/37.101, 64.101, 65(56) **References Cited****U.S. PATENT DOCUMENTS**

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D231,349 S • 4/1974 Gaffney ..... D12/211  
D302,264 S • 7/1989 Soederberg ..... D12/209  
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D401,205 S • 11/1998 Fischer ..... D12/209

D407,057 S • 3/1999 Goplen ..... D12/211  
D412,149 S • 7/1999 Corioni ..... D12/211  
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D419,940 S • 2/2000 Sacco et al. .... D12/209  
D428,845 S • 9/2000 Yoshida et al. .... D12/211  
D430,523 S • 9/2000 Pfeiffer ..... D12/209  
D432,479 S • 10/2000 Lee et al. .... D12/209  
D436,912 S • 1/2001 Boyer ..... D12/211  
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D451,466 S • 12/2001 Fujii ..... D12/211  
D460,941 S • 7/2002 Muzzarelli ..... D12/211

\* cited by examiner

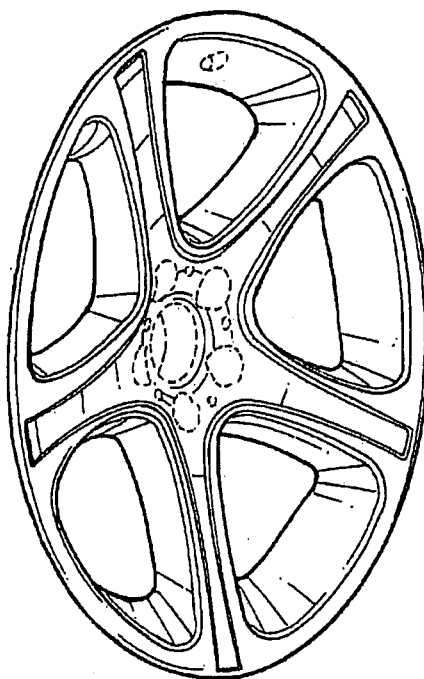
*Primary Examiner—Stacia Cadmus*(74) *Attorney, Agent, or Firm—Crowell & Moring LLP*(57) **CLAIM**

The ornamental design for a front face of a vehicle wheel, as shown and described.

**DESCRIPTION**

FIG. 1 is a front view of a front face of a vehicle wheel according to my novel design; and,  
FIG. 2 is a perspective view of the front face of a vehicle wheel according to my novel design.

The dash lines included depict environment and are not part of the claimed design.

**1 Claim, 1 Drawing Sheet**

U.S. Patent

Feb. 11, 2003

US D470,093 S

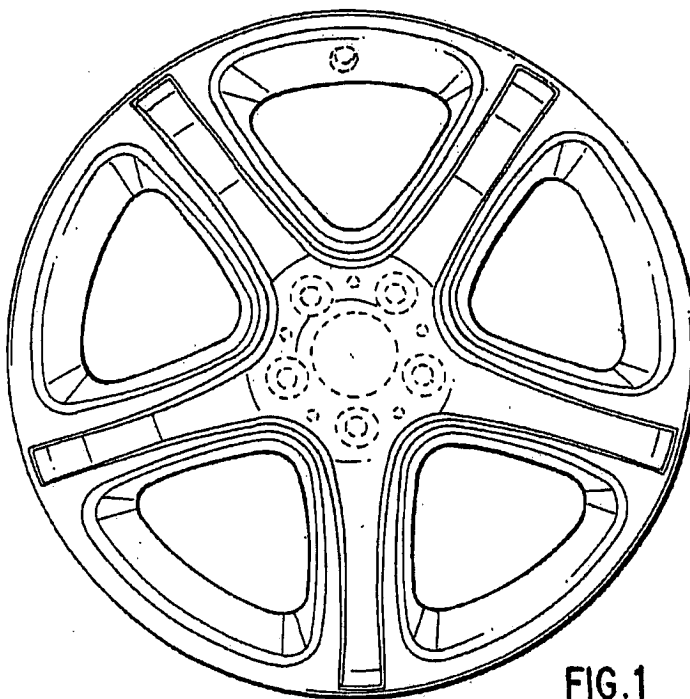


FIG. 1

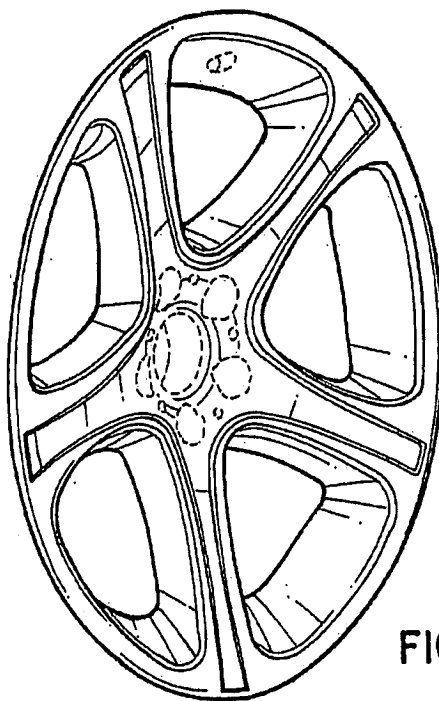
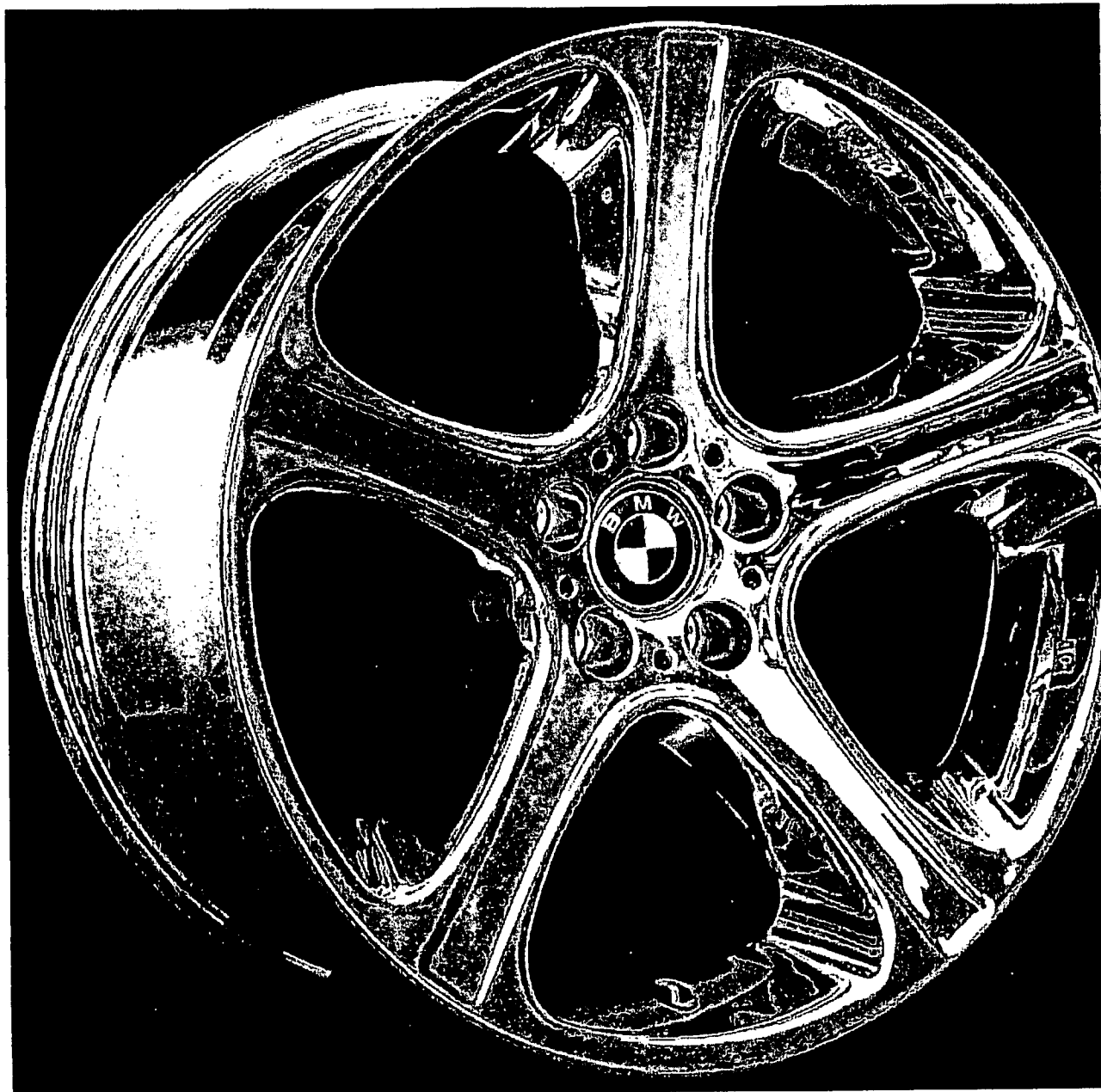


FIG. 2







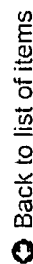
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Listed in category: eBay Motors &gt; Parts &amp; Accessories &gt; Car &amp; Truck Parts &gt; Wheels, Tires &amp; Parts &gt; Wheels &gt; 20" or more

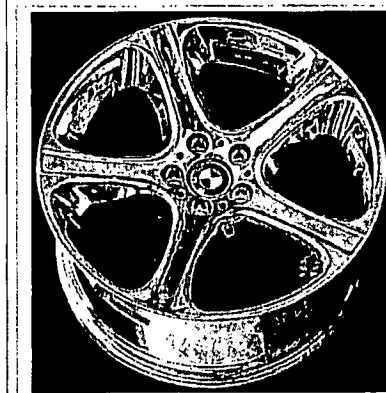
## 20 bmw x3 x5 chrome staggered wheels rims

ORIGINAL OEM REPLICAS - BMW CENTER CAPS INCLUDED

Item number: 350014312049

Buyer or seller of this item? Sign in for your status

Watch this item in My eBay



View larger picture

Buy It Now price: **US \$795.00** Buy It Now

Get low monthly payments

Shipping costs: **US \$89.00**

UPS Ground

Service to United States

Ships to: Worldwide

Item location: San Diego, CA, United States

Quantity: 20 available

History: Purchases

You can also:

Watch This Item

Get mobile or IM alerts | Email to a friend

Listing and payment details: Hide

### Meet the seller

Seller: eurotechwheels ( 2073 ★ )

Feedback: **99.4% Positive**

Member: since Nov-15-01 in United States

- See detailed feedback
- Ask seller a question
- Add to Favorite Sellers
- View seller's other items: Store | List
- Visit seller's Store: [EuroTech Luxury Wheels](#)

### Buy safely

#### 1. Check the seller's reputation

Score: 2073 | 99.4% Positive  
See detailed feedback

#### 2. Check how you're protected

Starting time: Jan-11-08 13:23:23 PST  
Duration: 30-day listing

Payment methods: **PayPal** (preferred),  
Money order/Cashiers  
check,  
Visa/MasterCard,  
American Express,  
Discover  
See details

**PayPal** This item is covered up to  
**\$2000** See [eligibility](#)

Returns: Seller accepts returns.  
7 Days Merchandise Credit

## Description

EuroTech Luxury Wheels

**eurotech wheels**

**858.245.1802**

Visit my eBay Store:  EuroTech Luxury Wheels  
BMW Wheels | Mercedes Wheels



## Recognition

>> All Classic Wheels have been documented meet or exceed exact OEM standards set by leading auto manufacturers

## Reliability

>> Each wheel comes with a Lifetime Manufacturer's Defect Warranty and two-year finish warranty

## Safety

>> Every wheel undergoes over 15 separate testing procedures, including x-ray, radial fatigue, submersion testing, before being approved for road use, ensuring your vehicle comfort and stability always remain intact

## Appearance

>> Looks matter - Every wheel is finished in brilliant Triple Chrome for 3x the shine and durability.

## A Perfect Fit

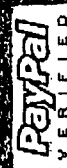
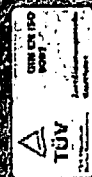
>> We believe in getting it right the first time, that's why every wheel is machined precisely for the vehicle, which it's designed for.

Direct Application...

Easy Installation...

Perfect Fitment...

## *EuroTech Wheels Family Values*



Find more items from the same seller. Bid or Buy Now!



17 mercedes benz c cl clk e ml s sl silk amg wheels rims

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US \$459.00

Time left:

< 6 m



17" Audi A4 A6 A8 S4 S6 RS4 RS6 quattro wheels rims

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US \$495.00

Time left:

< 6 m



19 Bmw 3 M3 318 e46 318 320 323 325 328 330 wheels rims

Buy It Now






US \$795.00

Time left:

1h 5m

Visit seller's Store

**Shipping, payment details, and return policy**

|                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                          |                    |                                     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|--------------------|-------------------------------------|
| <b>Ships to</b><br>Worldwide                                                                                                                                                                                                                                                                                                                                                                                                                  |                                          |                    |                                     |
| <b>Shipping and Handling</b>                                                                                                                                                                                                                                                                                                                                                                                                                  |                                          |                    |                                     |
| Country: <input type="text" value="United States"/>                                                                                                                                                                                                                                                                                                                                                                                           | Quantity: <input type="text" value="1"/> | Update             |                                     |
| <b>Shipping and Handling</b>                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Each Additional Item</b>              | <b>To</b>          | <b>Service</b>                      |
| US \$89.00                                                                                                                                                                                                                                                                                                                                                                                                                                    | Free                                     | United States      | UPS Ground<br>1 to 6 business days* |
| *Sellers are not responsible for service transit time. This information is provided by the carrier and excludes weekends and holidays. Note that transit times may vary, particularly during peak periods.                                                                                                                                                                                                                                    |                                          |                    |                                     |
| <b>Shipping insurance</b><br>Not offered                                                                                                                                                                                                                                                                                                                                                                                                      |                                          |                    |                                     |
| <b>Seller's payment instructions</b><br>Thanks for your purchase. Please follow the links to checkout.                                                                                                                                                                                                                                                                                                                                        |                                          |                    |                                     |
| <b>Seller's return policy:</b><br>Item must be returned within: 7 Days                                                                                                                                                                                                                                                                                                                                                                        |                                          |                    |                                     |
| Refund will be given as:                                                                                                                                                                                                                                                                                                                                                                                                                      |                                          | Merchandise Credit |                                     |
| <b>Payment methods accepted</b>                                                                                                                                                                                                                                                                                                                                                                                                               |                                          |                    |                                     |
|      |                                          |                    |                                     |
| <ul style="list-style-type: none"> <li>• Money order/Cashiers check</li> </ul>                                                                                                                                                                                                                                                                                                                                                                |                                          |                    |                                     |

- Visa/MasterCard, American Express, Discover

## Ready to Buy?

Item title: 20 bmw x3 x5 chrome staggered wheels rims

[Help](#)

Buy It Now

~~Buy It Now~~ price: US \$795.00

Your Quantity: x

Buy It Now

You will confirm in the next step.

## What else can you do?

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**I. (a) PLAINTIFFS**

BMW of North America, LLC and Bayerische Motoren Werke AG

**DEFENDANTS**

Eurotech Wheels, LLC, Eurotech Rims, LLC, Ryan Moalemi and Joshua Moalemi

(b) County of Residence of First Listed Plaintiff Bergen County  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant San Diego  
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Bobby A. Ghajar, Esq. (S.B. No. 198719)

HOWREY LLP

550 South Hope Street, Suite 1100

Los Angeles, CA 90071

Telephone: (213) 892-1800

Facsimile: (213) 892-2300

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

'08 CV 0171 JM WMC

DEPUTY

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- PTF DEF  
Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business In This State ☐ 4  
Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5  
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

| CONTRACT                                                                          | PERSONAL INJURY                                                | PERSONAL INJURY                                                         | FORFEITURE/PENALTY                                                       | BANKRUPTCY                                                       | OTHER STATUTES                                                                         |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------------------|--------------------------------------------------------------------------|------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| <input type="checkbox"/> 110 Insurance                                            | <input type="checkbox"/> 310 Airplane                          | <input type="checkbox"/> 362 Personal Injury—Med. Malpractice           | <input type="checkbox"/> 610 Agriculture                                 | <input type="checkbox"/> 422 Appeal 28 USC 158                   | <input type="checkbox"/> 400 State Reapportionment                                     |
| <input type="checkbox"/> 120 Marine                                               | <input type="checkbox"/> 315 Airplane Product Liability        | <input type="checkbox"/> 365 Personal Injury—Product Liability          | <input type="checkbox"/> 620 Other Food & Drug                           | <input type="checkbox"/> 423 Withdrawal 28 USC 157               | <input type="checkbox"/> 410 Antitrust                                                 |
| <input type="checkbox"/> 130 Miller Act                                           | <input type="checkbox"/> 320 Assault, Libel & Slander          | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <b>PROPERTY RIGHTS</b>                                           | <input type="checkbox"/> 430 Banks and Banking                                         |
| <input type="checkbox"/> 140 Negotiable Instrument                                | <input type="checkbox"/> 330 Federal Employers' Liability      | <input type="checkbox"/> 370 Other Fraud                                | <input type="checkbox"/> 630 Liquor Laws                                 | <input type="checkbox"/> 820 Copyrights                          | <input type="checkbox"/> 450 Commerce                                                  |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment    | <input type="checkbox"/> 340 Marine                            | <input type="checkbox"/> 371 Truth in Lending                           | <input type="checkbox"/> 640 R.R. & Truck                                | <input type="checkbox"/> 830 Patent                              | <input type="checkbox"/> 460 Deportation                                               |
| <input type="checkbox"/> 151 Medicare Act                                         | <input type="checkbox"/> 345 Marine Product Liability          | <input type="checkbox"/> 380 Other Personal Property Damage             | <input type="checkbox"/> 650 Airline Regs.                               | <input checked="" type="checkbox"/> 840 Trademark                | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations            |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) | <input type="checkbox"/> 350 Motor Vehicle Product Liability   | <input type="checkbox"/> 385 Property Damage Product Liability          | <input type="checkbox"/> 660 Occupational Safety/Health                  | <b>SOCIAL SECURITY</b>                                           | <input type="checkbox"/> 480 Consumer Credit                                           |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits        | <input type="checkbox"/> 355 Motor Vehicle Product Liability   |                                                                         | <input type="checkbox"/> 690 Other                                       | <input type="checkbox"/> 861 HIA (1395ff)                        | <input type="checkbox"/> 490 Cable/Sat TV                                              |
| <input type="checkbox"/> 160 Stockholders' Suits                                  | <input type="checkbox"/> 360 Other Personal Injury             |                                                                         | <b>LABOR</b>                                                             | <input type="checkbox"/> 862 Black Lung (923)                    | <input type="checkbox"/> 810 Selective Service                                         |
| <input type="checkbox"/> 190 Other Contract                                       |                                                                |                                                                         | <input type="checkbox"/> 710 Fair Labor Standards Act                    | <input type="checkbox"/> 863 DIWC/DIWW (405(g))                  | <input type="checkbox"/> 850 Securities/Commodities/Exchange                           |
| <input type="checkbox"/> 195 Contract Product Liability                           |                                                                |                                                                         | <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act      | <input type="checkbox"/> 864 SSID Title XVI                      | <input type="checkbox"/> 875 Customer Challenge 12 USC 3410                            |
| <input type="checkbox"/> 196 Franchise                                            |                                                                |                                                                         | <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act      | <input type="checkbox"/> 865 RSI (405(g))                        | <input type="checkbox"/> 890 Other Statutory Actions                                   |
| <b>REAL PROPERTY</b>                                                              | <b>CIVIL RIGHTS</b>                                            | <b>PRISONER PETITIONS</b>                                               | <input type="checkbox"/> 740 Railway Labor Act                           | <b>FEDERAL TAX SUITS</b>                                         | <input type="checkbox"/> 891 Agricultural Acts                                         |
| <input type="checkbox"/> 210 Land Condemnation                                    | <input type="checkbox"/> 441 Voting                            | <input type="checkbox"/> 510 Motions to Vacate Sentence                 | <input type="checkbox"/> 790 Other Labor Litigation                      | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | <input type="checkbox"/> 892 Economic Stabilization Act                                |
| <input type="checkbox"/> 220 Foreclosure                                          | <input type="checkbox"/> 442 Employment                        | <b>Habeas Corpus:</b>                                                   | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act                | <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609         | <input type="checkbox"/> 893 Environmental Matters                                     |
| <input type="checkbox"/> 230 Rent Lease & Ejectment                               | <input type="checkbox"/> 443 Housing/Accommodations            | <input type="checkbox"/> 530 General                                    | <b>IMMIGRATION</b>                                                       |                                                                  | <input type="checkbox"/> 894 Energy Allocation Act                                     |
| <input type="checkbox"/> 240 Torts to Land                                        | <input type="checkbox"/> 444 Welfare                           | <input type="checkbox"/> 535 Death Penalty                              | <input type="checkbox"/> 462 Naturalization Application                  |                                                                  | <input type="checkbox"/> 895 Freedom of Information Act                                |
| <input type="checkbox"/> 245 Tort Product Liability                               | <input type="checkbox"/> 445 Amer. w/Disabilities - Employment | <input type="checkbox"/> 540 Mandamus & Other                           | <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee              |                                                                  | <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice |
| <input type="checkbox"/> 290 All Other Real Property                              | <input type="checkbox"/> 446 Amer. w/Disabilities - Other      | <input type="checkbox"/> 550 Civil Rights                               | <input type="checkbox"/> 465 Other Immigration Actions                   |                                                                  | <input type="checkbox"/> 950 Constitutionality of State Statutes                       |
|                                                                                   | <input type="checkbox"/> 440 Other Civil Rights                | <input type="checkbox"/> 555 Prison Condition                           |                                                                          |                                                                  |                                                                                        |

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 U.S.C. Sections 1114(1) and 1125, 35 U.S.C. Section 271.

Brief description of cause:

Trademark infringement, cybersquatting, and design patent infringement.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ Yes ☒ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

American LegalNet, Inc.  
www.FormsWorkflow.com

DATE  
January 28, 2008

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # 146976 AMOUNT 350.11/29/08 APPLYING IFF JUDGE MAG. JUDGE

**UNITED STATES  
DISTRICT COURT**  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

# 146976 - SR  
\* \* C O P Y \* \*  
January 29, 2008  
15:46:40

**Civ Fil Non-Pris**

USAO #.: 08CV0171 CIV. FIL.  
Judge..: JEFFREY T MILLER  
Amount.: \$350.00 CK  
Check#.: BC#16364

**Total-> \$350.00**

FROM: BMW OF NORTH AMERICA V.  
EUROTECH WHEELS  
CIVIL FILING